

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
UNITED STATES OF AMERICA,

-against-

08 Cr. 826

AAFIA SIDDIQUI,

Defendant.

-----X

SENTENCING PROCEEDING INVOLVING AAFIA SIDDIQUI
HELD SEPTEMBER 23, 2010

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1 09N5sids sentence
1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
2 -----X
3 UNITED STATES OF AMERICA,
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4 v. 08 Cr. 826 (RMB)
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5 AAFIA SIDDIQUI,
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6 Defendant.
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7 -----X
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8 September 23, 2010
9 9:40 a.m.
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10 Before:
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11 HON. RICHARD M. BERMAN,
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12 District Judge
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1 APPEARANCES
1
2 PREET BHARARA
2 United States Attorney for the
3 Southern District of New York
3 BY: CHRISTOPHER LAVIGNE
4 DAVID M. RODY
4 Assistant United States Attorneys
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5 DAWN CARDI
6 CHAD EDGAR
6 Attorneys for Defendant
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7 SWIFT & McDONALD, P.S.
8 Attorneys for Defendant
8 BY: CHARLES SWIFT
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9 LINDA MORENO, P.A.
10 Attorney for Defendant

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BY: LINDA MORENO

ELAINE WHITFIELD SHARP
Attorney for DefendantALSO PRESENT: GEORGE COREY, NYPD
JODY ALMODOVAR, NYPDSOUTHERN DISTRICT REPORTERS, P.C.
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(Case called)

THE COURT: We are here this morning for sentencing in this case and if you have spoken to any of the Judges in this district and anywhere else, I think they'll all tell you that sentencing is the most difficult task of being a Judge. None of us takes any satisfaction or joy in incarcerating people, especially a woman of Dr. Siddiqui's intelligence, talents, opportunities and possibilities. We all have families, as she does, and we appreciate how difficult it must be for them to be separated.

My goal in this proceeding following the February conviction as a result of a jury verdict on all seven counts charged in the indictment is to achieve a fair and reasonable sentence which meets the sentencing law criteria and objectives, and that is also sufficient but not greater than necessary to comply with the purposes of our sentencing law.

I expect, incidentally, that this sentence will take some considerable time this morning. I intend to be as thorough as possible and to let everyone speak who appropriately needs to speak. I also intend to show you how the sentencing law works and to clear up some issues in some of the sentencing submissions that I received from both sides. And also my purpose this morning is to include some context for this sentencing relating to aspects of the case and the trial and so that any of you who, whether you agree or disagree with

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the sentence, will have my perspective in one place, that is to say, in one transcript of today's proceeding.

In sentencing a defendant following the Supreme Court's decisions in the Gall case, in the Kimbrough case, in United States v. Booker, among others, and also in decisions of the Second Circuit Court of Appeals in the Crosby case and in Regalado, the Court is aware of the following:

First, that the United States sentencing guidelines are no longer mandatory; and second, the Court must and in this case I have at least preliminarily, before coming out on the

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11 bench today, considered all of the factors found in our
 12 sentencing law which we refer to as 18, United States Code,
 13 Section 3553(a), and I have done that for each of the seven
 14 counts in the indictment. And those factors that are set forth
 15 in the sentencing law include the nature and circumstances of
 16 the offense, the history and characteristics of the defendant,
 17 the need for the sentence imposed to reflect the seriousness of
 18 the offense, to promote respect for the law, to provide a just
 19 punishment for the offense, to afford adequate deterrence to
 20 criminal conduct, to protect the public from further crimes, to
 21 provide the defendant with needed medical and/or therapeutic
 22 care, educational or vocational training if that were
 23 appropriate, or other correctional treatment in the most
 24 effective manner. And, in doing that, we look at the kinds of
 25 sentencing available. In this case the only sentence that is

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1 available is a sentence of incarceration. We look at the kinds
 2 of sentence and the sentencing range established in the
 3 sentencing guidelines even though, as I have said at the
 4 outset, those are no longer mandatory.

5 Indeed, we typically start the sentencing analysis by
 6 looking at what the sentencing guidelines propose. We also
 7 look at any policy statements issued by the sentencing
 8 commission, we seek to avoid unwarranted sentence disparities
 9 among similarly situated defendants, and finally to provide for
 10 restitution which is not a factor in this case.

11 So, I will follow this procedure this morning.

12 First I'm going to give you some background,
 13 particularly aspects of this case overall which inform the
 14 sentencing including, among other things, which inform the
 15 nature and circumstances of the offenses in this case and the
 16 history and characteristics of the defendant. And then after I
 17 do that I will hear from the defense, including Dr. Siddiqui if
 18 she wishes to be heard, and then from the government. And
 19 then, third, I will review the sentencing guidelines and
 20 proposal for sentencing from each side and all the other
 21 factors that I mentioned before at 18, United States Code,
 22 Section 3553(a) which govern sentencing. And you will see in
 23 this case that there is disagreement between the parties, as is
 24 often the case in criminal sentencing, as to what the
 25 sentencing guidelines are and what the sentence to be imposed

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1 should be. And then, fourth, I will impose the sentence.

2 So, let's start here. Dr. Aafia Siddiqui the daughter
 3 of a physician and social worker, is a 38-year-old citizen of
 4 Pakistan who spent a significant portion of her life in Zambia
 5 as a young child and later in the United States, as have other
 6 members of her family including her brother who is an architect
 7 and her sister who is a Harvard-trained neurologist.

8 As a college student she lived first in Houston and
 9 then in Boston where she received an undergraduate degree from
 10 MIT and a Ph.D from Brandeis University.

11 She was arrested and detained by the Afghan National
 12 Police and officials of the Afghan Ministry of the Interior in
 13 Ghazni Province, Afghanistan on or about July 17, 2008, along
 14 with her 13-year-old son. It has never definitively been
 15 established why Dr. Siddiqui and her son were in Afghanistan at

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16 that time. Speculation has ranged from the following, that,
 17 one, that she was looking for Ammar Al Baluchi, who I
 18 understand she is married to and who is currently being held,
 19 along with his uncle Khalid Sheik Mohammed, at the United
 20 States Base in Guantanamo, Cuba, on terror-related charges.
 21 Other speculation is that she was on a mission to attack
 22 Americans. Another speculation is that she was there to
 23 distribute documents instructing the Taliban how to make
 24 explosives to destroy the foreigners and government Army.

25 Incidentally, I am not giving you the citations for
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1 all of these factors that I am mentioning but this is all from
 2 the record.

3 At the time that she was detained she denied that the
 4 child with her was her son. DNA testing proved that the boy
 5 was her son. She was also at that time in possession of, among
 6 other things, two pounds of sodium cyanide which is described
 7 in the presentence report as a highly toxic substance that can
 8 be weaponized and is poisonous even in small doses.

9 She also had various documents in English and Urdu,
 10 some written or copied by Dr. Siddiqui herself, and those
 11 mentioned U.S. locations and/or landmarks such as the Brooklyn
 12 Bridge, the Empire State Building, and they also mention
 13 techniques for combat against the United States and for
 14 biological warfare.

15 From the transcript of the trial we find this quote:
 16 "They," one of the witness referring to the handwritten
 17 documents, "clearly indicated types of attacks to include
 18 chemical/biological attacks. They indicated what appeared to
 19 us as a target inside of the United States, targets
 20 specifically in the New York City area." Some of this material
 21 was admitted into evidence at trial, principally as background
 22 or as reflective of knowledge, motive or intent, opportunity,
 23 preparation, plan and absence of mistake.

24 In short order, the Afghans alerted the U.S. forces
 25 who were in the area which I think it is fair to characterize

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1 as a war zone. And they, in turn, assembled a team, among
 2 others, of U.S. officers and employees including Army special
 3 forces, FBI agents and others, and their interpreters, who went
 4 to the Afghan National Police compound to interview
 5 Dr. Siddiqui. The American team met with what in my view can
 6 fairly be described as an odd Afghan-arranged scene in a
 7 crowded room in the police compound. What I mean by that is
 8 unbeknownst to the Americans, Dr. Siddiqui had been left both
 9 unguarded and unrestrained behind a curtain dividing the room
 10 even though she had already tried twice to escape from Afghan
 11 custody.

12 The jury determined that, after U.S. Chief Warrant
 13 Officer put down his weapon -- in a gesture incidentally of
 14 cordiality and respect for the Afghans -- Dr. Siddiqui picked
 15 up his M4 rifle which is described in the indictment as a
 16 machine gun, she aimed it at the Americans and pulled the
 17 trigger firing off several shots. As she did this, she uttered
 18 inferably in the same impeccable English that she has
 19 demonstrated here in the courtroom, anti-American sentiments
 20 such as, and these are quotes, "I want to kill Americans,"

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21 "Death to America," "I want to kill all you mother" -- you know
 22 the rest, and "May the blood of something be on your head or
 23 hands." She missed the targets but the Chief Warrant Officer did
 24 not. He shot her in the abdomen after a brave Afghan
 25 interpreter named Ahmed Gul charged and helped to restrain

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1 Dr. Siddiqui who put up a violent struggle with the M4 still in
 2 her hands both before and after she was shot.

3 Dr. Siddiqui was removed from the compound by the
 4 Americans including Special Agent Eric Negron and captain
 5 Robert Snyder with whom she continued to struggle. Negron is
 6 quoted from the transcript of the trial as having said, "She
 7 placed her hands on me, started to strike me, attempted to bite
 8 me, scratch me," etc. She was taken to the American hospital
 9 base where she was treated and nursed back to health. And
 10 where, incidentally, she made certain statements which were the
 11 subject of a separate hearing within the trial on January 28,
 12 2010 at which the defense called Dr. Siddiqui to testify.

13 within approximately two-plus weeks she was flown to
 14 New York and shortly thereafter appeared here in the Southern
 15 District of New York before Magistrate Judges Ellis and Pitman.
 16 CJA attorney Elizabeth Fink was appointed her first counsel.
 17 Ms. Fink would later be replaced at her own request by CJA
 18 counsel Dawn Cardi and Chad Edgar, and they would be joined in
 19 the defense by Attorneys Elaine Sharp, Linda Moreno and Charles
 20 Swift who were retained by the government of Pakistan in
 21 consultation, as I understand it, with members of the Siddiqui
 22 family and according to a treaty to which the U.S. is a party.

23 On September 2, 2008 she was indicted on seven
 24 separate counts or charges or crimes, each count being a
 25 separate crime or offense and they included the following:

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1 Attempted murder of U.S. nationals, attempted murder of U.S.
 2 officers and employees, armed assault of U.S. officers and
 3 employees, discharge of a firearm during a crime of violence,
 4 and also three counts of assault of three different U.S.
 5 officers and employees; Interpreter Gul, Captain Snyder and
 6 Special Agent Negron.

7 She was, on February 3, 2010, as most of you know,
 8 convicted of all seven counts charged in the indictment
 9 following a two-week trial. In this case jury selection was
 10 completed on or about January 13 and 14, and opening statements
 11 in the trial itself began on a Tuesday, January 19th.

12 Now, you should know that in considering these seven
 13 counts for sentencing under our sentencing law we consider
 14 Counts One, Two and Three and Five, Six and Seven as a group,
 15 and we consider Count Four separately which, by law, needs to
 16 be sentenced consecutively. So, One, Two, and Three Five Six
 17 and Seven are grouped together for sentencing analysis and
 18 Count Four is a consecutive sentence.

19 After having appeared before two magistrate judges in
 20 2008, Dr. Siddiqui refused to come to court voluntarily in the
 21 fall of 2008 objecting to security searches by the Bureau of
 22 Prisons. She also complained that a Zionist conspiracy existed
 23 and would prevent her from getting a fair trial. Indeed,
 24 during the course of the proceedings she said all I did say was
 25 that Israel was behind 9/11.

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1 She also wrote to me, it should be noted, and these
2 letters are in the record that, and this is a quote, "I am not
3 inherently against Israelis or Israel or any other country or
4 people for that matter. I have studied and lived in facilities
5 owned or run by Israeli-Americans for years. I have never said
6 or did anything negative about Israel or Israelis and certainly
7 not about Jewish people or Judaism." As Ms. Fink and
8 Mr. Raskin of the U.S. Attorney's office at the time agreed
9 that Dr. Siddiqui should be examined for competency to stand
10 trial, her absence from the court in the fall of 2008 was
11 excused by me.

12 At this point I want to talk a little bit about the
13 competency hearing because the mental health issues have been
14 raised again in this sentencing.

15 On consent of both parties, that is to say the
16 government and the defense, Dr. Siddiqui underwent an extensive
17 competency exam after having been transferred to the women's
18 prison at FMC Carswell in Texas for that purpose.

19 Dr. Siddiqui refused to cooperate in the competency
20 exam but enough information was gleaned by experts for both
21 sides to reach their respective conclusions.

22 Following the expert examinations, Dr. Siddiqui was
23 returned to New York City and a competency hearing was held
24 with the experts and the Court was able to assess
25 Dr. Siddiqui's demeanor in the courtroom along with the

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1 testimony of the expert witnesses and to review exhibits which
2 were submitted.

3 On July 29, 2009, I issued a 36-page ruling finding
4 that Dr. Siddiqui was competent to stand trial and reflecting
5 that the defense had, in my judgment, not proven by a
6 preponderance of the evidence that she was incompetent. And
7 that was based upon an extensive record which counsel had
8 developed.

9 The decision and order of July 29, 2009 along with the
10 other proceedings in this case is incorporated here in its
11 entirety including the conclusion that I reached in that
12 decision, among others, that this is most certainly a situation
13 where the defendant's political beliefs and perspectives blur
14 the line between mental health issues and political advocacy.

15 Now, I want to talk about the period 2003 to 2008, the
16 so-called gap years.

17 There is insufficient evidence in the record
18 conclusively to confirm all of Dr. Siddiqui's whereabouts
19 between 2003 and 2008. According to the defense, Dr. Siddiqui
20 acknowledged that she went into it hiding in 2003 shortly after
21 a man named Majid Khan was arrested, allegedly a man she
22 offered to help by setting up a mail box on his behalf in
23 Baltimore, Maryland. Khan is also one of the persons currently
24 detained at Guantanamo Bay, Cuba. She stayed for some time
25 with the family of Ammar Al Baluchi whom, as I said I

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1 understand she subsequently married and, to my understanding
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2 but unsubstantiated, is married to today.

3 After Al Baluchi's arrest by the Pakistani
4 intelligence, Dr. Siddiqui apparently moved to Karachi.
5 According to the defense memo, she had claimed that a short
6 time after moving there a man named Abu Lababa issued a Fatwah
7 for her to do biological research in order to develop defenses
8 for her country should Pakistan be attacked by an enemy. And
9 she did this for approximately six months.

10 She then apparently moved to Nazimabad and presumably
11 made trips from there to Afghanistan in search of Al Baluchi.
12 According also to the defense memo, Dr. Siddiqui's son has
13 reportedly said they were living with Dr. Siddiqui's mother
14 and, quote, she also intimated that Dr. Siddiqui met with what
15 appeared to be jihadists and that he believed they were on a
16 suicide mission in Shazni before the incident which is the
17 subject of this case. Dr. Siddiqui's son is said to have made
18 some more recent statements which are at odds with the quote I
19 just gave you and I will discuss them in a minute. During this
20 five-year period Dr. Siddiqui's first husband, Mohammed Amjad
21 Khan, allegedly claims to have seen Dr. Siddiqui on several
22 occasions including in 2003 and 2005, riding in a taxi in
23 Karachi, Pakistan.

24 None of these five-year references is referred to here
25 as a fact in evidence in this case.

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1 The Court also notes that Dr. Siddiqui was an
2 unindicted co-conspirator in the case of United States v. Uzair
3 Paracha. The government in this case has noted that these
4 current charges, that is to say the seven counts for which she
5 was indicted and convicted against her, are not related to the
6 conspiracy at issue in the Paracha case. Incidentally, the
7 charges in the Paracha case included conspiracy and the
8 substantive counts of providing material support and resources
9 to Al Qaeda, making or receiving a contribution of funds, goods
10 or services on behalf of Al Qaeda, and committing
11 identification and document fraud to facilitate an action of
12 international terrorism. A judgment dated July 21, 2006, was
13 entered in this Court by Judge Scheindlin against Paracha after
14 he was found guilty and she sentenced him to a term of 30 years
15 of imprisonment.

16 In the defense sentencing submission, particularly the
17 letter dated July 13, 2010, from Dr. Barry Rosenfeld, a
18 clinical psychologist, there is mention that Dr. Siddiqui came
19 into some contact with radical elements while in Boston while
20 she was living there. Dr. Rosenfeld mentions that while living
21 in Boston, Dr. Siddiqui had some interaction with extremists,
22 presumably groups that were affiliated with Al Qaeda and were
23 recruiting people for military training. In his letter he
24 says, and this is a quote, there was an organization that was
25 aligned with Al Qaeda and involved in facilitating terrorist

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1 activities but Dr. Siddiqui was not able to sustain a
2 relationship with them.

3 There are defense allegations going back to the
4 assertions made first by Dr. Siddiqui's counsel Ms. Fink that
5 Dr. Siddiqui was intercepted while in a taxi in Pakistan on her
6 way to the airport with her children and taken into custody and

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7 thereafter tortured. And that is alleged to have occurred
 8 sometime in or around 2003 or thereafter. There are defense
 9 allegations also that she was detained by Pakistanis and later
 10 by Americans. And it apparently has recently been reported,
 11 that is to say in August of this year, that Dr. Siddiqui's son
 12 said that -- has recently said that he and his mother were
 13 detained and mistreated by American soldiers and people
 14 speaking Urdu and Pashto.

15 I am aware of no evidence in the record to
 16 substantiate these allegations or to establish them as fact.
 17 Indeed, there is no credible evidence in the record that the
 18 United States officials and/or agencies detained Dr. Siddiqui
 19 prior to her arrest in July of 2008 after the incident
 20 alleged -- the shooting incident alleged in this case.

21 A word about defense counsel.

22 On several occasions during the course of these
 23 proceedings I have received written communications directly
 24 from Dr. Siddiqui. Some of those letters expressed
 25 dissatisfaction with her counsel and her wish to fire them. At

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1 one point or another this sentiment applied to all of
 2 Dr. Siddiqui's counsel including counsel retained by the
 3 government of Pakistan. On November 3, 2009, I conducted a
 4 hearing on this subject and before the hearing I received
 5 proposed written questions to ask Dr. Siddiqui at the hearing
 6 from both sides, and following the hearing I issued detailed
 7 findings of fact and conclusions of law dated November 10, 2009
 8 and I determined not to relieve Dr. Siddiqui's attorneys for
 9 the following reasons, among others: (1) it was then on the
 10 eve of trial; (2) there had been no significant breakdown in
 11 attorney-client communications and counsel, particularly
 12 Ms. Sharp, were communicating with Dr. Siddiqui at the time;
 13 (3) neither Dr. Siddiqui nor her family had provided an
 14 alternative proposal as to who would represent her; and (4) and
 15 understandably, Dr. Siddiqui did not wish to represent herself
 16 and appear pro se.

17 Now, the trial itself, just a few minutes.

18 This was a complicated trial, not necessarily because
 19 of the charges in the indictment but because of issues that
 20 were sometimes peripheral to the charges. For one thing there
 21 were security issues which need to be attended to in
 22 high-profile cases. This, among other things, was the subject
 23 of a Court order dated January 25, 2010 which you can find in
 24 the docket. Despite precautions there was a serious incident
 25 in Court in which a member of the audience allegedly made

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1 inappropriate and threatening gestures to two jurors which
 2 caused me, after questioning the jurors, to excuse those two
 3 jurors and replace them with alternates and to exclude the
 4 audience member from further proceedings, and also caused me to
 5 refer the matter to the United States Attorney's office where
 6 it is currently pending.

7 Second, there was the issue of Dr. Siddiqui's
 8 outbursts in the courtroom in front of prospective jurors and
 9 in front of the actual jurors during the trial. These caused
 10 the government to request that the defendant be excluded from
 11 the trial and that we try the case without her. Respectfully,

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12 I concluded that that was not a good idea then or now and I
 13 denied the request. It would have made no sense, in my view,
 14 to arrest a non-U.S., in this case Pakistani citizen in
 15 Afghanistan, and transport her to New York City for trial and
 16 then conduct a trial in her absence even though she, herself,
 17 was the cause of the disruptions.

18 So, every day of the trial Dr. Siddiqui was given the
 19 opportunity to be here in the courtroom and conduct herself
 20 appropriately, which she clearly knew how to do. And when she
 21 was disruptive, which did happen from time to time, we made
 22 adjustments such as removing her to a cell adjacent to the
 23 courtroom where a TV had been installed and where she could
 24 still, together with one of her attorneys such as Ms. Sharp,
 25 view and listen to all of the proceedings.

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1 There was never a single moment when Dr. Siddiqui was
 2 denied the opportunity to confront her accusers and when she
 3 did not have the opportunity to participate in her defense or
 4 in a public trial. And she availed herself of that
 5 opportunity.

6 Dr. Siddiqui engaged in the trial proceedings over the
 7 objection of her counsel and following a hearing on January 28,
 8 2010 Dr. Siddiqui elected to take the stand in her own defense
 9 which was her right under our legal system.

10 On that same day, January 28, 2010 the defense counsel
 11 called her as a witness in a separate hearing relating to the
 12 voluntariness of certain statements she had made while
 13 hospitalized in Afghanistan. Among other things there was that
 14 interchange between myself and defense counsel. I said: I was
 15 proposing that she could do that -- meaning testify -- in her
 16 trial testimony later on, and I would reserve decision about
 17 this part, that is to say I was suggesting that if the defense
 18 wanted to, instead of having her testify both during the
 19 hearing and then later that afternoon during the trial, she
 20 could do it once if that were easier. And then I said, but if
 21 you prefer and she prefers to testify now -- that was during
 22 the hearing -- and then come back and testify again in the
 23 afternoon during the trial, that's certainly agreeable to me.
 24 Mr. Swift responded that: I think we need to call her now.
 25 Then I asked: Is she ready? Ms. Sharp responded: Yes, I

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1 think she is.
 2 The trial was completed, start to finish, within two
 3 weeks with approximately 26 witnesses called live or by
 4 deposition and it took one and a half days for jury
 5 deliberation.

6 One final word I want to say about media in this case
 7 and then I will turn to the counsel for the defense, to
 8 Dr. Siddiqui, and to the government and hear from them.

9 All members of the press, domestic and foreign, are
 10 welcome here and have been given full access to today's
 11 proceedings and to the trial itself which began following jury
 12 selection, as I said, on Tuesday, January 19, 2010. There was
 13 in fact some initial uncertainty about several members of the
 14 non-resident press, about their credentials, because some of
 15 those reporters did not have a New York City Police Department
 16 press pass and because it had been our practice in the Southern

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17 District to look to the New York City police press pass as a
18 credential for this court.

19 That certainly didn't last more than a day or two, and
20 this is important to me. There were never a day that any press
21 representative was unable to view and report on the trial
22 either in an overflow courtroom or here. And on 90 percent of
23 all trial days, that is to say by no later than the second or
24 third day of trial, Wednesday or Thursday January 20 or 21st,
25 to be in this same courtroom which in fact they all were.

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1 So, let me take a moment now and turn to the defense.
2 Before I do that, Ms. Sharp, maybe I should ask you this. Have
3 you had an opportunity to go over the sentencing materials with
4 Dr. Siddiqui, particularly the presentence investigation
5 report?

6 MS. SHARP: Yes, your Honor. I did on July the 4th.
7 She was in her cell. She did not speak to me but I was able to
8 speak to her and her ears were not blocked, however I did
9 attempt to go over more recent submissions with Dr. Siddiqui
10 yesterday evening. I was with her for an hour and a half and
11 she did not wish to hear anything about sentencing so she has
12 no information about more recent filings.

13 THE COURT: Okay. So, we have a lot of ground still
14 to cover in sentence and I will defer to the defense who wishes
15 to be heard at this time and/or Dr. Siddiqui, whatever order
16 you all think that would make sense.

17 MS. CARDI: Your Honor, I am prepared to speak on
18 behalf of the defense.

19 THE COURT: Okay. And then we will turn to
20 Dr. Siddiqui after you speak, is that fair?

21 MS. CARDI: Yes, your Honor.

22 In thinking about what I was going to say to the Court
23 today, this is one of the most difficult cases I have ever
24 experienced in my professional career. It is difficult because
25 in many ways Dr. Siddiqui is an enigma. I don't think at this

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1 time in history we really know what happened and what the truth
2 is in regard to the life of Dr. Siddiqui. I do know that I
3 respectfully disagree with some of the fact-finding that your
4 Honor has just related and I will address that in the course of
5 my discourse. But, I do know one thing -- we don't know what
6 happened to Dr. Siddiqui. We don't know what happened to her
7 between 2003 and 2008.

8 And while it is true that there are no facts before
9 this Court to corroborate or to aid us in knowledge, the
10 government knows. The government of the United States knows.
11 Do I think the prosecutor sitting at this table knows?
12 Probably not. Do I think the agents sitting at this table
13 know? Probably not. But do I think that the CIA knows and
14 other government agencies know? I believe they know. And one
15 of the curious things about knowledge here is that when I came
16 onto this case I was asked to get top secret security
17 clearance. And so I did that because it was my understanding
18 that it was required in order to properly defend my client.

19 It is not pretty to get top secret security clearance.
20 You really do open up your life in ways that one shouldn't have
21 to open up their life but I was willing to do that, to have

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22 family and friends and others spoken to, because it was what
 23 was required for my client.
 24 So, I did that and I got top secret clearance only to
 25 be then told by the government that there was no top secret

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1 security information that was relevant to my defense of
 2 Dr. Siddiqui.
 3 Now, historically we know that at some point in the
 4 future it is very likely that we are going to get information
 5 about Dr. Siddiqui, about what happened here, about what
 6 happened to her. It is not going to come voluntarily from our
 7 government, it is going to come through a FOIA application or
 8 through the energies and efforts of the press. We are going to
 9 learn about things that the government isn't going to admit to
 10 today and hasn't admitted to. The government has not admitted
 11 to secret prisons, they have not admitted to torture, and they
 12 have not admitted to many things that through history we have
 13 discovered.

14 what I do know is that we have a human being here
 15 sitting before your Honor today. Her life is in your hands.
 16 And it is my job and my actually honor to talk to the Court
 17 about the human being, not the political person, not what
 18 America wants to think of her politically, not what the
 19 Pakistanis want to talk about her or think about her
 20 politically. It is about Aafia Siddiqui and what happened that
 21 day and who she is. Quite frankly, she's a woman who is a
 22 mother but whose children were missing for years.

23 Just recently, after the conviction, her little girl
 24 appeared at her sister's home in Karachi. Her son has given
 25 all types of different statements, clearly a child who has been

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1 traumatized and God knows what he went through. And Sulemon,
 2 her then six-month-old when she disappeared, is gone and no one
 3 knows where he is.

4 I do know that during the course of my representation
 5 of Dr. Siddiqui she has, and it has been related to
 6 psychiatrists and prison officials, that she has feared talking
 7 about those five years because of her fear and concern of what
 8 would happen to her children. As a mother I understand those
 9 fears. She would die rather than hurt her children. What has
 10 that done to Dr. Siddiqui? I submit to you that what we have
 11 learned about her, as your Honor has chronicled, has shown that
 12 a once very promising young woman has deteriorated.

13 And while this Court has found that she is competent,
 14 she is in fact suffering from mental illness and diminished
 15 capacity. And that has been supported by not only the
 16 psychologist we hired for the defense, but also her treating
 17 clinician in Carswell, Texas.

18 Dr. Camille Kemky who testified, contrary to the
 19 psychologists of the Bureau of Prisons and certainly testified
 20 in a way that was not favorable for her professionally, that in
 21 20 years of experience treating mentally ill people that it was
 22 her professional people that Dr. Siddiqui was suffering from
 23 schizophrenia. She said you can call it paranoid delusions,
 24 you can call it schizophrenia, but that she was mentally ill.
 25 And she stood fast on that position.

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1 Dr. Siddiqui's demeanor, the things she's talked about
2 during the trial, the outbursts, have all been often fairly
3 incoherent and if left to continue to speak, Dr. Siddiqui
4 becomes more tangential and more incoherent. She suffers from
5 diminished capacity, that is clear. She makes the -- her
6 decisions, in regard to how and whether to cooperate with her
7 counsel during the course of her defense, as Dr. Kucharski
8 said, is an indication of her delusions and her paranoia and
9 her fears.

10 This is not a simple case. This is not a simple
11 person. She's complicated. You look at her life, you look at
12 her prior life before this incident, there is no indication of
13 violence. She was not a violent person. She was an abused
14 spouse, that is for certain. She was beginning to show the
15 beginnings of her diminished capacity when she was studying.
16 And I believe that Dr. Rosenfeld recorded in an interview that
17 one of her associates who studied with her indicated that she
18 had started off as a promising candidate but her mental
19 capacities diminished and her ability to work and do the work
20 diminished, that she did not really seek the kinds of
21 professional jobs that she should have given her background.

22 And I need to say something about her background. The
23 government has painted, yet again and repeated ceaselessly,
24 that she had a Ph.D in neuroscience. And they used that to
25 make the leap that somehow she is someone who is capable and

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1 knowledgeable about chemical warfare and could be of huge
2 assistance to some, again, unknown force because the government
3 has yet to prove that she has any relationship to Al Qaeda,
4 that somehow that neuroscience background has given her special
5 expertise.

6 Well, her neuroscience background, she wrote her
7 thesis -- she wrote her Ph.D on how children learn; cognitive
8 science. She is not a biologist, she is not a chemist, and
9 there is nothing about her studies that indicate or have been
10 shown that she has any special expertise on chemical warfare.
11 In fact, if you read the writings that the government refers to
12 and the claims of all of the scientific information that she
13 has presented in her writings, we have the writings of a person
14 who is mentally ill. There was no such thing as viruses that
15 can attack only adults and not children. Hang gliders flying
16 into public buildings is hardly what anyone who is sane or
17 competent thinks can be an efficient form of a terrorist act.
18 I mean, we read her ramblings.

19 Dr. Kucharski points it out, Dr. Rosenfeld points it
20 out, we've pointed it out, I have asked the world to read what
21 she has written; it is incoherent, it cannot be corroborated as
22 good science, it is the writings of a woman who is mentally
23 ill.

24 And we can continue in this courtroom to pretend that
25 that's not true but it is true. And so, I'm asking the Court

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1 to consider some of this in making its decision about what will
2 happen to her for the rest of her life. Dr. Siddiqui -- and I

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3 really think -- I really think that the jury got it and I will
 4 tell you why I think the jury got it, your Honor, because
 5 despite the fact that she was convicted on all counts in this
 6 case, the jury came back and said that she was not guilty on
 7 premeditation. And that's a curious verdict. It is our
 8 contention that it is not so curious given what they saw, what
 9 they heard, and we believe it supports an underlying
 10 corroboration of the fact that she didn't have the mental
 11 capacity to have premeditation. She was mentally ill and that,
 12 to me, is significant, because the government spent two weeks
 13 making their best arguments about her and her activities and
 14 their allegations that she was a jihadist and that she was
 15 someone who was going to harm the United States.
 16 I mean, they didn't believe it. What they believed is
 17 she didn't pre meditate. And let's talk about that because
 18 that is really important and that's been ignored.
 19 Dr. Siddiqui -- you look at all of the terrorist
 20 cases, the cases where Courts have found that the terrorist
 21 enhancement which allows the Court to sentence her to life, if
 22 you look at all the acts in all of those cases and you see how
 23 very different the acts in this case were, I mean, you have
 24 case after case of long-term calculated planning involvement in
 25 trying to harm the United States or to harm embassies abroad.

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1 I mean, there is just a series of cases where the activities
 2 are clearly calculated, premeditated, and planned.
 3 I mean, we talk about the pocket letter. We talk
 4 about Dr. Siddiqui showing up in Ghazni Province. Well, what
 5 was she going to do in Ghazni province? She was going to do
 6 what? Convert the Taliban? Bring people into the Taliban?
 7 Bring people into the terrorist organizations?
 8 Well that, if she was going to do that, I submit to
 9 you she would have brought documents and writings in Dari and
 10 Pashto, not in Urdu and English languages that these people who
 11 live in Afghanistan don't really understand.
 12 So, I mean, was she just off that day? No. People
 13 talk about her as wandering around Ghazni province kind of like
 14 a bag lady because she does have diminished capacity and she
 15 was carrying a bag and she was grabbed from the streets and all
 16 she wanted to do was get away because she was afraid. And she
 17 tried to escape. There is no question she tried to escape.
 18 She tried to escape with the Afghans and she tried to escape
 19 with the Americans and that was all she wanted to do. She
 20 didn't want death to America, she didn't want harm to America.
 21 It didn't really matter who was there, what their nationality
 22 was. They could have been any nationality. This woman was
 23 petrified and frightened about being tortured, about being sent
 24 to Guantanamo, about all kinds of things that I probably can't
 25 imagine because I don't know what she experienced the previous

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1 five years.
 2 Her fears -- she was a woman frightened, possessed,
 3 upset. She needed to escape and that's what happened. She
 4 didn't do a cold, calculating plan to come to Ghazni Province
 5 to do damage and plan that damage and then plan to attempt to
 6 murder these individuals who were in there on that day. And we
 7 know that and we know that because that's what the testimony

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8 was. We know that. That's not what happened that day.

9 She had an opportunity, she wanted to escape. She
10 grabbed an M4. And I submit to you, your Honor, that she
11 grabbed the M4 but we don't know, the jury has said that and
12 has found her guilty of the attempted murder, but we do know
13 that in the significant action report recently released in the
14 wikileaks information that there was a Department of Defense
15 document which was not turned over during the trial and which
16 the government says they did not have and were not aware of
17 which says that she describes the incident as her reaching for
18 the gun and being shot by American forces.

19 Again, will we know what really happened? We won't.
20 But it certainly is more consistent with what the defense has
21 said in regard to the forensic or lack of forensic evidence in
22 this case.

23 Clearly she was suffering from diminished capacity. I
24 mean, that's clear. She was afraid.

25 Your Honor, she -- you have to decide today, really --
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1 there are many legal issues. Many. There are sentencing
2 guideline issues, there are downward departure -- I mean, there
3 are departure issues, there are non-guideline sentencing
4 issues, but the most important issue is going to be what will
5 her sentence be. Will she spend the rest of her life in a
6 prison in solitary confinement for 23 hours a day?

7 I don't know if you have seen the prison cell that
8 Dr. Siddiqui has been living in for the last number of years.

9 THE COURT: I have. I have. I took a visit to the
10 Brooklyn facility.

11 MS. CARDI: Right. It is a small concrete cell block,
12 no light, no windows, a toilet, nothing on the walls.

13 Whenever I go to see Dr. Siddiqui I leave that prison
14 cell and think I would go mad being in that cell 23 hours a
15 day. She's let out for one hour of exercise. She is fed her
16 food through the cell. It is a horrible, horrifying existence.
17 And so, when you think today about how many years you are going
18 to sentence her to, what we have to think about is she will be
19 under those very same conditions, if not worse conditions, for
20 all of the time that she will spend in prison.

21 Now, it is our contention, and we've provided it in
22 our documentation, that Dr. Siddiqui should only receive a
23 12-year sentence because that's what we think is appropriate in
24 this case given her lack of violent past, her lack of criminal
25 history, her mental incapacities, her -- the loss of her family

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1 and children, the conditions in which she will be held. The
2 fact that we do -- no one can say today whether or not
3 Dr. Siddiqui will be rehabilitated. We cannot predict. No one
4 can predict rehabilitation. No one can predict whether or not
5 she will get the proper medical and psychological treatment in
6 prison that will help her repair.

7 Yes, is she required to be incarcerated under our
8 system of law? Yes. No question about that. No question
9 about the jury verdict, no question about that. We are not
10 talking about her walking free after what has occurred here,
11 but we are talking about getting some sense of what is
12 appropriate.

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13 I don't -- you know, we are going to look back at this
 14 era in our country and we may very well say that fear was what
 15 drove some of our sentences. Fear. And I think in this case a
 16 great deal of what the government says has been its desire to
 17 create fear; fear in our courts, fear in our society. Fear.
 18 And because of that fear they want Dr. Siddiqui to be sentenced
 19 to life in prison when really, under the guidelines, her
 20 sentence should be approximately 12 years -- 10 to 12 years
 21 without these enhancements for the fear factor, the terrorist
 22 enhancement, the now interpreting the attempted murder as first
 23 degree attempted murder with premeditation so you can bump up
 24 the guidelines even higher. Fear.

The Courts -- the Sentencing Commission said, look,
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1 what Dr. Siddiqui did was wrong but attempted murder ordinarily
 2 would be handled in that fashion. That's what a fair sentence
 3 would be for Dr. Siddiqui. But, no, we want it to be more
 4 because of fear. And, your Honor, it is my submission that it
 5 is, in some ways, in many ways irrational fear because there
 6 has been nothing about what Dr. Siddiqui has said beyond the
 7 incident that occurred that is in fact violent. She comes into
 8 this court and has often said I want peace, I want to make
 9 peace between the Taliban. If I could get Obama together with
 10 the Taliban we could have peace.

11 This is not the voice of a jihadist. This is not -- I
 12 don't hear her talking anti-American sentiment. She says I
 13 love America. Read her writing about why I am not a terrorist.
 14 She isn't in here like, you know, the Times Square bomber
 15 standing before a federal judge and pleading guilty and saying
 16 I'm glad I did it, I would do it again. I hurt women and
 17 children in America like you are hurting women and children
 18 abroad. You have never heard that from Dr. Siddiqui. Never.
 19 And you won't because that's not who she is.

20 She is a woman who was caught in a situation, she
 21 reacted. Her reactions have changed her life forever but the
 22 question is do we incarcerate her forever. Do we keep her in
 23 prison forever? And I submit to you that she is not the kind
 24 of defendant that we do that to.

Your Honor has a wide range here of where and how much
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1 you can sentence Dr. Siddiqui to, but if you sentence her to
 2 life in prison it means that today at 38 years old you have
 3 given up on her with all of the possibilities that she can be
 4 treated and helped and repaired. And I submit to you, your
 5 Honor, that that is not a fair sentence, that that is not what
 6 is required in order to do justice. And that's really what you
 7 are trying to do here and it is a tough job. But what does it
 8 take to do justice?

9 I submit to you that it is not just to sentence her to
 10 life in prison. It is not just. And it is not just to throw
 11 away the key to this 38-year-old mother. It is just not. She
 12 hasn't done anything to deserve this Court throwing away the
 13 key on her, giving up on her. I mean, that is the beauty of
 14 our system of justice in America which is a good thing, that we
 15 do care about that. You care -- I know you care about that.
 16 You care about figuring out what is just and what is fair and
 17 you wrestle with that, as we all do. And I submit to you that

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18 in wrestling with that you cannot give up hope that she will
 19 reform, that she will be rehabilitated, that she can go home to
 20 her family in Pakistan where she will go after she leaves
 21 prison.

22 THE COURT: Here, Ms. Cardi, are two very fundamental
 23 concerns that I have, and we will go through the legal
 24 guidelines enhancements and mandatory maximums and all of that
 25 which we will do that, but to address your points or your

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1 concerns, two things that trouble me, among other things in the
 2 defense submission, are these.

3 So, Dr. Rosenfeld and Dr. Kucharski, both of whom are
 4 respected clinicians, they both say in their opinions there is
 5 serious mental health issues here. They don't, and no one has
 6 throughout this entire case, suggested any prognosis, any
 7 course of treatment, any course of medication if that's what it
 8 would take, which would repair or help to repair the conditions
 9 that they perceive. And, as you know, of course there are
 10 other government psychiatrists equally prominent and equally
 11 trustworthy who say that there is no serious mental illness and
 12 so they don't bother, of course, to suggest a course of
 13 treatment because they don't agree with Rosenfeld and
 14 Kucharski.

15 So, even accepting your premise that there are mental
 16 health issues, there is no way, in the absence of a really good
 17 prognosis or a good course of therapy or good course of
 18 medication, there is no way that you could protect against what
 19 happened on July 18, 2008 happening again tomorrow for whatever
 20 reason you are saying that it happened.

21 And the second is that for whatever reason, and I will
 22 acknowledge that she has her reasons, Dr. Siddiqui has never
 23 cooperated with any mental health physicians or her attorneys
 24 for that matter. And that's her right. You know, no one is
 25 forcing her to do anything and she doesn't have to cooperate.

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1 But, without that component, without that engagement or
 2 cooperation it is very unrealistic, it seems to me, to perceive
 3 that there could be rehabilitation or that there could be a
 4 different outcome than we have already seen.

5 So, those are two -- there are others but those are
 6 two fundamental impediments to my coming to the conclusion that
 7 she can, is, or will be, rehabilitated.

8 MS. CARDI: Your Honor, if I may address them?

9 Prison has certainly not been a good setting for
 10 exploring treatment regimens as to whether or not Dr. Siddiqui
 11 would cooperate with treatment.

12 I do know that -- and I want to address your Honor's
 13 very, very specific question about how can we protect against a
 14 repeat of what happened in Afghanistan.

15 THE COURT: It is one of my concerns.

16 MS. CARDI: Yes, and it is an important concern.

17 I think even with Dr. Siddiqui's suffering from her
 18 mental illness, that was a unique event that was brought about
 19 through circumstances that were really out of control and kind
 20 of historically unique, and I think Dr. Kucharski points that
 21 out in his report when he talks about her future.

22 It is not as if we have a mentally ill person who is

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23 going out into the street and going, and just at random, you
 24 know, grabbing guns and harming people, shooting people,
 25 hurting people. We don't have that. That's not what happened

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1 here. We have a very unique set of circumstances and that --
 2 and she addressed it in that way: what will happen to her in
 3 the future?

4 Again, that is true we can never predict what will
 5 happen in the future, but what we do know is that that
 6 likelihood of the confluence of circumstances is highly
 7 unlikely. And in all other aspects of her life there has never
 8 been anything to indicate that she, herself, is a violent
 9 person; that she is one who is going to, you know, shoot
 10 somebody or harm somebody in this very way. I mean, we may
 11 differ about what her writings or political issues are or
 12 whatever, her intellectual or those issues, but as a human
 13 being there is nothing for us to indicate that this will happen
 14 again because I don't think this confluence of circumstances is
 15 very likely to happen again in her life. That's number one.

16 Number two, as and I know --

17 THE COURT: I don't really mean that she is going to
 18 wind up in Ghazni, Afghanistan again and that she is going to
 19 be arrested and that Americans are going to come. I mean
 20 behaviorally.

21 MS. CARDI: Right, behaviorally.

22 THE COURT: Something, life is going to unfold and it
 23 seems to me crystal clear that the past behavior is predictive
 24 of the future unless there is some intervention that is
 25 successful. None has been proposed in this case by the defense

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1 and absent one -- and none that might be proposed is there any
 2 suggestion that Dr. Siddiqui would cooperate in it. And
 3 barring those two factors it strikes me that it is naive and
 4 inconceivable that there is going to be a change or
 5 metamorphosis or rehabilitation or whatever you want to call
 6 it, absent those factors.

7 That's my opinion.

8 MS. CARDI: But, your Honor, she has not exhibited any
 9 violent behavior in any way over the years she has been
 10 incarcerated. In fact, she is a kind of a peaceful soul in the
 11 prison system. She does not, you know, she does not cause any
 12 trouble, she's basically quiet, and she's -- so, we don't see
 13 violence in her even with her mental illness and diminished
 14 capacity. Even if it were never to be treated, we don't see
 15 her and I don't think the psychiatrist or psychologists see her
 16 as a particularly violent individual in terms of future
 17 violence. I think that it is hard to know whether or not
 18 Dr. Siddiqui, once she is sent to a facility -- and I am going
 19 to ask, by the way, that she be sent to FMC Carswell.

20 THE COURT: And I am going to grant that application.
 21 I think that to the extent she has had some positive
 22 environment since she has been here it has been there, so I'm
 23 going to recommend that her incarceration be served at FMC
 24 Carswell.

25 MS. CARDI: And my hopes --

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1 THE COURT: And her brother also lives in Texas so I
2 think that that has a salutary effect.

3 MS. CARDI: And my hope would be that they would be
4 able to assist Dr. Siddiqui over the course of these many years
5 because I believe 12 years is many years, 15 years is many
6 years, 20 years is many years, will be able to help her, repair
7 her in many ways.

8 But, even if your Honor's concern is will she be
9 rehabilitated, that's true of anyone who has committed
10 attempted murder. Right? I mean, you have defendants who
11 stand before you who have committed attempted murder, the
12 guidelines are this, you sentence them and you really don't
13 know at the end of their sentence and most people will serve
14 perhaps a 10 or a 12 year sentence for what she did without the
15 enhancements, just the sentence. We can't predict whether or
16 not they'll go out and do it again but we have a system of
17 justice that says that's not really what it is about. We
18 understand that there are, for certain crimes there is a finite
19 amount of time that is fair and just. We can't hold you
20 because we think you might do it again, we can only give you
21 the sentence that we think is fair and just. And then the
22 question becomes whether or not people are rehabilitated or
23 they're not. And as you and I both know, people recidivate and
24 they come back and other people never come back again.

25 I mean, the prediction, given the fact that I think

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1 this was a unique set of circumstances, it is highly unlikely
2 that Dr. Siddiqui will ever attempt to murder anyone again. It
3 is very likely that at the end of her sentence she will go back
4 to her family, she will be quite a bit older and probably quite
5 a bit calmer and hopefully better, and we don't know what her
6 life will be like but hopefully she will be reunited with two
7 of her three children, hopefully her family will care for her.
8 I think it is unlikely.

9 But if we say that because what she did in Ghazni
10 Province means she never gets to go back to her family, she
11 never gets out because maybe she might do it again I don't
12 think is fair to Dr. Siddiqui.

13 Now, did you have a second question, your Honor?

14 THE COURT: No. I don't know -- those are some of my
15 concerns. I think we do need to go through -- I do, anyway,
16 all of the enhancements, consecutive --

17 MS. CARDI: So, your Honor, I'm going to just end,
18 because I know we are going to go through the legal aspects of
19 this case, I'm going to end by saying that it would be, in my
20 view, extremely Solomonian of you to not sentence Dr. Siddiqui
21 to life in prison but to come up with a sentence that is fair
22 and just and protects and does all the things that the
23 sentencing guidelines and justice requires but allows
24 Dr. Siddiqui the hope of living her life outside of prison back
25 with her family in her home, that you not send her away forever

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1 because forever is a really -- it is a death sentence for her.
2 And that's what it is. And she does not deserve a death
3 sentence in this case.

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4 Thank you, your Honor.
 5 THE COURT: Thank you.
 6 Dr. Siddiqui?
 7 THE DEFENDANT: I want to hear what they have to say
 8 because then you won't give me an opportunity a second time.
 9 THE COURT: Okay.
 10 THE DEFENDANT: I'm sure they'll have stuff that I
 11 don't agree with.
 12 THE COURT: That's fair. So, let's hear from the
 13 government and then we will hear from the Doctor.
 14 THE DEFENDANT: Thank you.
 15 THE COURT: You bet.
 16 MR. LAVIGNE: Thank you, your Honor.
 17 I want to address as much of what Ms. Cardi said as I
 18 can. I'm not going to address all the points but the first
 19 point I want to address is this idea that the government is
 20 trying to create fear. We are not trying to create fear, we
 21 are presenting the facts. That's what we did with the jury and
 22 that's what we have done in sentencing. And the fear that was
 23 established in that case was on July 18, 2008, when Aafia
 24 Siddiqui took an M4 rifle and pointed it at members of the
 25 interview team. These are individuals who were and are serving
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1 this country, one of whom, one of the victims is right here in
 2 court, Special Agent Erik Negron.
 3 The Court had the chance to hear from these victims
 4 and they and the Court heard directly from people who were in
 5 the line of fire and who that gun was pointed at, that's the
 6 fear that was injected in this courtroom. It was their fear.
 7 It was Captain Snyder saying he was looking down the barrel of
 8 a loaded gun and thought he was going to die. It was Medic
 9 Dawn Card saying the same thing, she thought she was going to
 10 die and then, afterwards, describing the angst she felt in
 11 treating a woman who moments before had tried to kill her. It
 12 was Special Agent Erik Negron seeing two hands and a gun
 13 pointed out from behind the curtain and then struggled with
 14 Aafia Siddiqui after he had been shot repeatedly --
 15 THE COURT: After?
 16 MR. LAVIGNE: After she had been shot repeatedly
 17 hearing her scream, "Death to America," "I want to kill
 18 Americans."
 19 That's the fear in this case. That's what this case
 20 is about. That's what the jury found. The jury found Aafia
 21 Siddiqui guilty of these seven counts in the indictment.
 22 That's what we know, those are the facts.
 23 We also know about these documents we have talked
 24 about, which are relevant, because this is not some random act.
 25 This is an act that was consistent with thoughts and documents
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1 that were recovered from Aafia Siddiqui the day before. And
 2 there is obviously disagreement about what those documents mean
 3 or what they show. And Ms. Cardi is a great lawyer and she is
 4 representing her client but I submit to you, Judge, that those
 5 documents are clear on one thing: The United States is an
 6 enemy, was an enemy of Aafia Siddiqui. And those documents are
 7 replete with references to the fact that the United States is
 8 an infidel, the United States is an enemy, and they discuss
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various ways to attack the United States.

Those documents speak for themselves and they're consistent with the acts she committed on July 18th, 2008. And those actions also are consistent with the statements she made. The statements she made to the Afghans the day before she was apprehended and the statements she made before, during, and after that shooting.

So, I submit, characterizing this event as something that was brought on by or caused by mental illness in a tense situation is not accurate. On that day Ms. Siddiqui, the bottom line is she saw her chance and she took it and she acted consistently with thoughts that were expressed in writings and in statements she made.

The other point I want to address is, you know, there has been a lot of talk about mental health in this case. Ms. Siddiqui has been diagnosed and evaluated by a number of physicians. Obviously there are different views on that by

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recognized professionals. The Court has had the chance to hear directly from three of them and the bottom line is at the time of the competency hearing almost everyone agreed that while at Carswell, her mental health improved. And I know the Court is recommending she be sent to Carswell but that's one way to alleviate some of the issues that Ms. Cardi has highlighted. And, we submit, based on our expert's report, that Ms. Siddiqui is not suffering from significant, major, mental illness.

But the idea that rehabilitation, which Ms. Cardi referenced as to how this is all related, that is obviously a purpose of sentencing, it is in 3553(a). It is an important part of your job, Judge, it is an important part of doing justice, we recognize that, but there are other aspects of 3553(a): Protecting the public, providing just punishment.

And, again, this goes back to the fact that this act, this crime -- it was horrific in its intent. There is no way to describe it, no other way to describe it, rather. A catastrophe was averted and, again, the Court heard from the victims of this crime about what they were feeling. And the Court has an obligation to protect the public and to punish this conduct. And the guidelines -- I'm not going to get into those now, but our view of the guidelines which we believe is an accurate application of them recognizes this. The guidelines say an offense like this in terms of who the victims were, why they were targeted, in terms of the purpose of the

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act, that provides for a life sentence and we believe that's consistent with 3553(a) in terms of protecting the public and deterring similar conduct.

One factual point I want to make is the PSR does reference a handful of incidents by Ms. Siddiqui but there has been at least one instance that I'm aware of off the top of my head around September 2008 where Aafia Siddiqui tried to bite a prison guard during the course of a medical evaluation. I mean, you know, we need to keep in mind and go back to the underlying circumstances of this offense. And the guidelines reflect and they're certainly not binding, we are aware of that, but they reflect the severity of this by suggesting a life sentence and we submit here that sentence is appropriate.

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14 I am happy to address any other questions that the
 15 Court may have.
 16 THE COURT: I do have one for you in a minute but when
 17 you finish then we will hear from Dr. Siddiqui, but I am going
 18 to go through the guidelines and the various interpretations of
 19 them by the government, by the defense, by the probation
 20 department and then my own interpretation, and I do intend to
 21 go through, to the extent I haven't already and I have touched
 22 on some of the criteria under the statute, but each of the
 23 criteria under 18, United States Code, Section 3553(a) and
 24 apply them to this case.
 25 The one question I do have for you is that Ms. Cardi
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 1 made reference to the fact that the government knows what
 2 happened in the 2003-2008 period and I just want to reiterate
 3 what I said in my opinion: I'm aware of no evidence in the
 4 record to substantiate these allegations or to establish them
 5 as fact. This is the so-called disappearance and torture, etc.
 6 And then I said there is no credible evidence in the record
 7 that the United States officials and/or its agencies detained
 8 Dr. Siddiqui prior to her arrest on July 20, 2008 after the
 9 shooting incident in this case.
 10 That's my opinion. What is your response to Ms. Cardi
 11 and, also, could you also discuss the action report that she
 12 referred to. It is part of the record incidentally also, it is
 13 on the docket.
 14 MR. LAVIGNE: Your Honor's understanding is consistent
 15 with ours and that's also been the subject of filings we have
 16 made which I'm not going to go into but that is our
 17 understanding as well and any allegations to the contrary are
 18 baseless.
 19 THE COURT: What about this special action report that
 20 Ms. Cardi referred to, the document that was recently
 21 declassified?
 22 MR. LAVIGNE: Your Honor, the significant action
 23 report is a document, it is not intended to be a full and
 24 complete recitation of the facts. It does not specifically say
 25 that Aafia Siddiqui fired the gun. It does say -- I don't have
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 1 it in front of me -- I believe that she picked it up, pointed
 2 it at investigators and shot in self-defense which is
 3 consistent with our theory.
 4 As to whether the gun was fired, the Court had the
 5 chance to hear from six different eyewitnesses who testified
 6 under oath, and we submit credibly, that that in fact occurred,
 7 that that's what they saw, and three witnesses who heard what
 8 happened who, in sum and substance basically heard an M4 shot
 9 or shots followed by 9 millimeter shots.
 10 THE COURT: That's what the jury believed.
 11 MR. LAVIGNE: Yes, Judge.
 12 THE COURT: Okay. All right. Thanks.
 13 Dr. Siddiqui, would you like to be heard now?
 14 THE DEFENDANT: Sir, do you want to give the
 15 guidelines, whatever? Because then I won't have a chance to --
 16 I can wait until the very end as long as you give me a chance
 17 to just clarify some things.
 18 THE COURT: Absolutely. You can speak now. You can

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19 speak later. You can speak both times, if you like. I'm
 20 leaving it up to you.
 21 THE DEFENDANT: Can I --
 22 THE COURT: It is your sentence. It is obviously of
 23 crucial importance to you and I'm happy to hear you out.
 24 THE DEFENDANT: Actually, it is not, but I already
 25 mentioned that to you, that it is not of crucial importance,
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 1 but just for the -- if you will allow me, there is something
 2 really major I could mention it later too then I can say a few
 3 words now.
 4 THE COURT: Okay.
 5 THE DEFENDANT: Is that okay.
 6 THE COURT: That's fine with me.
 7 THE DEFENDANT: By the way I didn't know that I was
 8 going to get --
 9 THE MARSHAL: Stay seated.
 10 THE DEFENDANT: Oh, sorry.
 11 From here?
 12 THE COURT: Sure.
 13 THE DEFENDANT: I just wanted to -- I haven't taken
 14 any notes or anything but -- and I didn't know I was going to
 15 get to say anything, so. I was planning on sleeping. But,
 16 anyway.
 17 THE COURT: Okay. Do you want to collect yourself?
 18 THE DEFENDANT: No, no, no. I'm fine. I'm fine,
 19 thanks to God. When I want to speak the truth, I mean whatever
 20 I say will be a benefit to whoever who wants to listen. You
 21 know?
 22 I just wanted to just touch on a few things that were
 23 mentioned. There were too many things, by the way, that I
 24 don't agree with that are not true, but I'm just going to touch
 25 on the things that will affect, in my humble opinion, the lives
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 1 of a lot of people because, as I just said to the Judge, it is
 2 not of crucial importance to me where I spend the rest of my
 3 life. I don't believe he is in charge or they are, or they
 4 are, or even I am, it is God. And I'm very happy and content
 5 with his, the way he is treating me.
 6 I am not being tortured in prison, that's one thing,
 7 at MDC. This is a myth, a lie, and it is being spread among
 8 the Muslims and I have a big problem with that.
 9 I have not written any letter why or any letter,
 10 period. The only letter I tried to send out -- I'm clarifying
 11 this because these are issues that are emotionally disturbing
 12 people overseas and I do not want a war between, you know,
 13 people who have been misinformed overseas about my case and
 14 because they know I'm innocent. I am. I do not agree with any
 15 of the charges that I have been -- whatever, and I'm going to
 16 go over that. But, as I said, what affects more people comes
 17 first in my humble opinion.
 18 So, I just wanted to clarify that I have not been
 19 writing to anybody. People have sent me cards, sympathy
 20 letters, whatever. They're all strangers. I do not know
 21 anybody other than my brother sends me cards which only say how
 22 are you, whatever, nothing -- I mean, post cards, but I never
 23 even reply to him.

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24 I did try to send three letters; of those one of them
 25 got returned to me and the other one I sent, tried to, from
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1 MDC, sent it certified with a return receipt but I never got a
 2 return receipt so I assume they never sent it out. And the
 3 problem with that is that now I have got some information,
 4 there is a major problem with the chief of intelligence at MDC.
 5 That is the person who is responsible for if there is any truth
 6 in the rumors of torture and his name is Mr. Desmond. I'm
 7 going to throw it out because I have very credible information
 8 that I have been desperately trying to give to the FBI but they
 9 won't let me. That man is involved in planning attacks against
 10 the U.S. and there is a lot of other information I have. It is
 11 concrete, it is coming from inside sources. When I say -- and
 12 I thank you, Judge Berman. I really appreciate that you did
 13 quote what I wrote to you. I am not against Israel. For the
 14 sake of God, I am not against anybody, period. But, here is
 15 the issue: I have been forcefully brought here. Whatever.
 16 You know, it is not my doing. But if there is things happening
 17 under my nose that will harm America and I know about them,
 18 there are people who are assigned to do all kinds of crazy,
 19 ridiculous things to me so that they can make a big war.
 20 That's part of the whole game. And if I get some solid proof
 21 from them, if they own up in front of me that, yes, they did it
 22 and would they, you know, help me and they don't like what is
 23 going on and they would want to work with me to stop any
 24 attacks against America, you know, if God is doing all of this
 25 to me I'm a human being and I have a background of being a
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1 social worker. My mother was one and I was her assistant,
 2 whatever you want to call it. So, I have a lot of experience
 3 in that. I can't be passive on these things. Would you? If
 4 you knew there was going to be a catastrophe in the U.S. would
 5 you not do anything to try to prevent it?
 6 So, I just have to mention certain things sometimes
 7 and that is where I have to mention the State of Israel. You
 8 can call it a political statement or not, it has nothing to do
 9 with politics, it is a humanitarian problem. You know, if you
 10 want to fight a war that's all I say, fight it yourself. Don't
 11 misinform the Americans playing this misinformation game and
 12 make people fight who are not going to fight. And I know this
 13 from my history, from secret prison where I was kept. They
 14 don't want to acknowledge it, I'm not getting into that.
 15 I have just said one thing all along. If anybody
 16 thinks it is my paranoia or whatever, I'm not paranoid. I'm
 17 not mentally sick. I do not agree with that.
 18 There is a very simple way, if anybody wants to do it
 19 for fun I can give you hundreds of names but I don't want to be
 20 doing this, I'm just doing this because I'm stuck in this
 21 country here and I can't bear to see the humanitarian disasters
 22 looming using my case by spreading this misinformation.
 23 I want to just say one thing, that you can genetically
 24 test people because when people are out there trying to make
 25 trouble between countries on that scale, they don't want to
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1 come out openly and say this is me. They hide their identity.
 2 And this is a problem. I know it like -- and it is so easily
 3 verifiable, all you need to do is do a simple DNA test to test
 4 the pedigree of a person. I mean, you can do it for your pet
 5 dog on the internet. So, all the data is available. Anybody
 6 with any background can do this. Do it for fun if you want to.
 7 And this is where you can verify whether, if there is
 8 a certain person who I know is up to no good and they're
 9 pretending to be a Hispanic when I know they're not; well, I am
 10 saying that and I am opening it to everybody and Americans must
 11 do this because this is the root cause of the war. The wars in
 12 Afghanistan, and I happen to have been incarcerated there for a
 13 long time, I have talked to the American soldiers in Bagram
 14 where I was treated. I know that the Christian Americans --
 15 sorry, here is a problem. Torture in prison -- most of my
 16 teeth are not my own. I got beaten many times and shortly
 17 before they transferred me to Ghazni they gave me some
 18 artificial teeth because they wanted to send me off on a
 19 mission but that never happened. Their plan sometime -- I
 20 don't know what. It just got messed up and I don't know what
 21 happened. I mean, you know, got re-arrested, whatever. But,
 22 so sometimes they fall off when I'm talking, the teeth, because
 23 they did a very bad job but I can eat and, you know, and if I'm
 24 not covering my face I don't look like a 110-year-old without
 25 teeth.

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1 So, because they wanted me to claim that I went to,
 2 was in Pakistan and all that and I did make those claims
 3 because they said we will give you back your children. And I
 4 was, you know, at that time all that I was thinking was my
 5 children. So I'm just giving you some digression on this so
 6 you understand.
 7 Okay. Getting back to what I was saying about why I
 8 make these statements sometimes which may be interpreted as
 9 political statements, it is more from a humanitarian point of
 10 view because I cannot bear to see this; that here is
 11 somebody -- and I'm not saying that all Israelis are involved.
 12 Maybe, you know, maybe -- Judge Berman said it all, I wrote it
 13 and I'm not going to repeat it for the sake of time, I have
 14 good relationships with them. And I wish, you know, to
 15 continue that. But there is definitely a certain element among
 16 them who are doing this and they're making big wars.
 17 Look at America. I mean, it bothers me. And I have
 18 worked with war victims in Bosnia and recently I was given a
 19 book at MDC about Burundi and Rwanda and that conflict and how
 20 a survivor had escaped. It was a wonderful book but, oh my God
 21 the massacre it is just, you know, it is heart rending. I
 22 don't like war. I really truly don't.

23 The only letter I mentioned I tried to send out was to
 24 the Dallas Peace Center because they send a newsletter that I
 25 was given in the mail. And I thought here is somebody who is

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1 lobbying for the truth who doesn't want war. So, that's what I
 2 want, that's what I've been doing. So, I tried to write to
 3 them but that letter never went out. And the other one I was
 4 given the wrong address and so it got returned. I mean -- and

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5 the person to blame is the person who is in charge of my, you
6 know, phone calls and mail and all that and I gave you the name
7 already.

8 And that person will do it because that person is one
9 of those people who are up to no good. And I am saying this
10 because I have too much proof to back it up. And that person
11 also has links to the secret torture cells and I can tell you
12 how they do it if anyone wants to know. It is not the subject
13 here, I won't into it without the officials finding out but, I
14 mean, it is going on. A lot of things are attempted at MDC on
15 me. The bosses don't even know but God protects me so why do I
16 complain. I don't.

17 THE COURT: Am I right that you had a better
18 experience FMC Carswell?

19 THE DEFENDANT: Sir, it was different. I will not say
20 better or worse. It was definitely very different but I'm not
21 going to say better or worse.

22 THE COURT: Okay.

23 THE DEFENDANT: It was just different, a whole
24 different world, put it that way.

25 But, I don't complain. I mean, I'm happy, thanks to
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1 God. In fact, the psychology department at MDC, which I
2 regularly talk to and this is not correct to say that I do not
3 cooperate with psychologists; no, I do. But certain
4 psychologists who I know lie because they are being paid big
5 money to do so or just give what their opinion is like the one
6 hired by the defense, I will not talk to them. But if I know
7 that they're honest, I will talk to them.

8 Dr. Kemky, by the way, and I wish she was here in
9 front of me, I swear to God, I even said this in testimony, she
10 told me I have post-traumatic stress disorder. But she
11 admitted and she was trying with tears. She was a very weak
12 person but a very good doctor, very good person. Dr. Kemky,
13 she said I am under tremendous pressure to not say that but I'm
14 going to say what I have to in court.

15 I mean, I don't blame her for saying that I have
16 schizophrenia or whatever. I did have it, post-traumatic
17 stress disorder what they call it. And obviously if you have
18 been tortured in prison for over years and then the head of
19 intelligence who is put in charge of all your affairs at MDC is
20 doing their best to psychologically torture you again, you know
21 that the post-traumatic stress will trigger and you will -- I'm
22 not going to go into the details of that disease but now,
23 thanks to God, I do not have it. And that does not make a
24 person mentally insane.

25 Are people following what I'm saying? Because I'm
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1 trying to say too many things in too little time.

2 THE COURT: No, no. I think they are.

3 THE DEFENDANT: Okay. Good.

4 THE COURT: Did you want me to talk about the
5 guidelines and then you can speak again after that?

6 THE DEFENDANT: I just want to -- so the mental health
7 issue I do not -- I respectfully completely disagree with the
8 defense on that. No, I am not mentally sick, schizophrenia.
9 Excuse me. No way on earth. I don't have any mental sickness

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10 and I think anybody who attended the trial and heard me testify
11 there can bear witness to that.

12 Secondly, no, I'm not anti-Israel but, yes, I have
13 said that they masterminded 9/11 and I have proof of that. Now
14 I am saying that there are attacks being planned against
15 America, big wars being planned and they are involved in it.
16 Stop it, please. Don't do it. You know? That's all I ask of
17 them. And if you are -- if you happen to be acting as a
18 Hispanic or Caucasian when you are not and if I am saying,
19 well, such and such person is up to no good, for heaven's sake
20 somebody loyal to America check them out. Check their genes.
21 You know? If I'm right or wrong, if I'm paranoid or not,
22 whatever, it is a complete test to give them. And I have to
23 say this, this may be my last opportunity to say it because
24 America really -- Americans really, really need to wake up to
25 the domestic problems.

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1 I was not allowed to talk to the FBI for three months.
2 I have been begging everybody at MDC because of the reason the
3 warden and them are, you know, those people. And even now my
4 case is not there today, as is expected. You know? They don't
5 want me to talk.

6 If I was a criminal, in my right mind would I be
7 begging to talk to the FBI? And I'm saying this in front of
8 everyone. I want to talk to them. And I named the people, the
9 only people I know who don't lie. Okay? Because there were
10 several FBI people who came here during the trial, Angela
11 Sercer, who was talking to me in Bagram but she never told me
12 she was FBI. So, I regurgitated what my captives have fed me
13 when I was in secret prison because I thought this was a game
14 to get my kids back but this was a plot. Understand? Is that
15 point clear? Because they do what's called brainwashing and I
16 have discussed this with the psychiatrist and psychologist I
17 have been talking to that, yes, this is a procedure they do
18 because I was like, this is what they used to do to me: Tell
19 me who you are hundreds of times, test me. If I messed up, it
20 was torture. I mean, how much pain can you take? And it all
21 was just a game.

22 So, when I met these people I thought it was another
23 exercise. And then it turned out that afterwards that, oh,
24 these are the real people. I'm like, hey, if they had just
25 told me, you know, I would have said, for God's sake, help me

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1 get my kids out, you know? This is the truth. But, you know,
2 I mentioned that during my trial so I won't repeat it.

3 But that explains the misunderstanding on that issue
4 but I know that Angela -- I don't think she is a liar. Hurley,
5 Mr. Gordon Hurley, these are FBI agents that testified from the
6 prosecution side during the trial. I want to talk to them
7 because I need to tell them about what's going on now using my
8 case.

9 I do not want a 9/11. I do not want any bloodshed. I
10 don't want any misunderstanding. I really want to make peace
11 and end the wars. And I could have earlier on when I had
12 offered that in one day. If anybody can convey this to
13 president Obama, he is serious about peace, nobody conveyed my
14 message to him properly, you know, so he probably doesn't even

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15 know that now I can help too.
 16 And I am saying this, I'm going to share with all of
 17 you something and this may shock the Muslims and I don't mean
 18 disrespect. If I was under oath I would put my hand on my holy
 19 book on that and say that, and I am a Muslim, but I do love
 20 America too and there is no harm. The prophet, peace be upon
 21 him, (Speaking in foreign language). And I love Zambia too
 22 because these are two -- my homeland. And Pakistan, too. I
 23 love the whole world, put it that way. I have no problem with
 24 all races and all people.
 25 Now, I -- too much stuff on my mind.
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1 what I'm trying to say is that I am going to share a
 2 dream. Okay? And take it, just hear me out. It is a
 3 prediction. If my dream is not true, you will see the events
 4 that will happen will be different. And I'm a human being, you
 5 know, maybe? But I saw the Prophet Mohammed, peace be upon
 6 him, and this was shortly after the trial. And I'm sharing
 7 this with everyone, the Muslims may be shocked at this, but I
 8 want you to understand that God knows what we don't know.
 9 Okay?
 10 And what I have been saying is based on what I know
 11 because I have had very unique experiences. Not many of you
 12 have been in secret prison, have observed the drama from behind
 13 the scenes. Not many of you have been tortured to try to be
 14 made an agent for them. You know? So when you go through
 15 that, they don't want you to survive it. And that's part of
 16 all the stuff that goes on. But God wants me to survive and I
 17 know it is for good reasons. Here is what I saw. I'm going to
 18 relate it. And first I'm going to tell you that the prophet,
 19 peace be upon him, said that if anyone attributes anything to
 20 me that I didn't say or do or, and the worst lie is a lie in a
 21 dream -- to say that you dreamt something when you didn't --
 22 and if anyone says anything then they can see their place in
 23 the fire of hell.
 24 So, having said that, I saw that -- and this is what I
 25 was thinking before sleeping, that I was wishing that somebody
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1 could tell the Taliban in Afghanistan, put mercy in their
 2 hearts because Prophet Mohammed is called the mercy to the
 3 entire universe. In the Qur'an, that's his title. (Speaking
 4 in foreign language). All the Muslims know that, right? Okay.
 5 Now, I keep saying that this war is a misunderstanding
 6 and it should end. Here is who knows.
 7 Now, I saw that he -- this is what was on my mind and
 8 I was thinking of Yvonne Ridley. People might know, she has
 9 been working on my case, she was a journalist. She was
 10 captured in Afghanistan by the Taliban. They treated her well
 11 and then released her and she became a Muslim. You know, she
 12 wears a head scarf and she still does her work and all that.
 13 And she was wondering why she didn't, you know, do that. She
 14 was very impressed by the way they treated her. You know?
 15 So I was thinking, you know, why do they have to kill
 16 these American soldiers? There have been American soldiers
 17 very nice to me in the prisons, Carswell and at MDC. And I
 18 have cried for them. I pray to God to save their lives. I
 19 can't even name them but -- I don't want to name them because

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20 then I don't want anyone hurting them in any way but I really
 21 love them because they don't even know why, you know, they're
 22 being sent over there.

23 When I was talking to them in Bagram they were like,
 24 you went to MIT? You know, we want to go to college too but
 25 what can we do, we're stuck here. And I was like crying, like,

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1 my God they're not enemies. You know? It is a
 2 misunderstanding. It is misinformation by a group of people
 3 that I mentioned earlier.

4 Okay. So, these people, I saw the Prophet, peace be
 5 upon him, enter a room, and the room was full of soldiers,
 6 American soldiers, and they were sitting on the floor hands
 7 behind their back, apparently prisoners of war. And I followed
 8 the Prophet, peace be upon him, behind him in that room. Then
 9 he walked through another room next to it and that room was
 10 also full of American soldiers and they were sitting too, hands
 11 behind their back. And then -- and I was following the Prophet
 12 and the Prophet turned to the soldiers and he addressed them,
 13 in English. And he just said one sentence. I don't remember
 14 the exact words but I know the meaning of it, and he said to
 15 the effect that he was consoling them, his tone was very
 16 gentle, consoling them, and he said that there is some talk of
 17 forgiveness and mercy. And then I see myself very clearly
 18 standing right there.

19 That, to me, was an answer because I was very sad
 20 about the lack of response for my peace, you know, offer, and
 21 then I realized that God has heard me and accepted my effort
 22 and he is telling me that I am sending you the mercy to all of
 23 mankind.

24 Now, the Muslims may think what on Earth? Those
 25 people are killing the Muslims and, you know, how could the

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1 Prophet console them? Those people don't know what they're
 2 doing. You know, I keep saying this. This is not an
 3 anti-American -- don't get angry at America. For God's sake,
 4 don't. They have been misinformed. You know what I'm saying?
 5 I'm not saying don't get -- I'm not even saying get angry at
 6 Israel. Don't. Personal reason. They kept my daughter, the
 7 Israeli-Americans, for years, and they did not rape her, they
 8 did not sexually abuse her. A girl with no protection other
 9 than that of God. If people can do that I have vowed that, in
 10 gratefulness to them -- if ever and I am optimistic, I'm not
 11 sad, I'm not distressed, thanks to God I am well in prison,
 12 they're not torturing me; God will not allow them to do that in
 13 New York.

14 So, I would make it a point that if anyone is against,
 15 say, the State of Israel, I will do whatever in my -- in my
 16 power to make sure that their children, their girls are
 17 protected, their children are protected. You know? But, at
 18 the same time I have to say this is not a political statement,
 19 it is coming from -- you don't know what a mother goes through
 20 when you are missing your children. You don't know. You can't
 21 unless you have experienced it. There are thousands and
 22 thousands of children in jails, okay, all over the world. I
 23 can't imagine what their mothers are going through. Until -- I
 24 don't have my baby. Okay? My six month old. He was sick and

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25 I don't know if I could have survived. But, if my older two
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1 could survive maybe then he did too.
2 So, I just make the appeal that any governments who
3 are holding prisons -- and I know that there are a lot of
4 Palestinian children in Israeli prisons because they throw
5 stones at the soldiers -- they're kids, you know? For God's
6 sake, stop this. So, if anyone wants to do anything for me, do
7 not lobby for me. Don't. I'm telling you, don't.
8 THE COURT: Dr. Siddiqui, we --
9 THE DEFENDANT: Do something for the kids and for
10 other prisoners and -- but don't, please, I'm really, really,
11 really asking all the Muslims especially, don't commit any act
12 of violence. In fact, don't do anything. Just pray to God.
13 Do not -- if you are living in a non-Muslim country anywhere in
14 the world people need to know about Islam, they need to know
15 that our Prophet is a Prophet sent as a mercy to the universe.
16 And if -- I will make this offer again to President
17 Obama. I recently checked the news because I purchased a radio
18 after all these two years of -- I decided it is kind of, you
19 know, in a way -- but the situation, in my humble
20 understanding, has changed now. I don't think I can now get
21 the Taliban to talk peace, but I can prevent hem --
22 THE COURT: Hold on one second, Dr. Siddiqui. I'm
23 going to not cut you off, I'm going to take a five minute break
24 and I'm going to allow you to speak again later on.
25 THE DEFENDANT: Okay. I'm sorry. That's why I was
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1 talking so fast because --
2 THE COURT: Not a problem.
3 THE DEFENDANT: I don't get to talk hardly.
4 THE COURT: It is not a problem. We will take a five
5 minute break.
6 THE DEFENDANT: But --
7 (Recess)
8 THE COURT: So, what I am going to do and,
9 incidentally, before we finish today I am going to give
10 Dr. Siddiqui another opportunity to speak and ultimately I'm
11 going to give her the last word before I impose the sentence;
12 but we have a handout for you that might help you understand
13 these guidelines analysis because they're a little bit
14 technical -- well, they are technical and I thought this might
15 help. And they would also, if you discuss them, you will see
16 the disparity between what the government believes are the
17 guidelines, what the defense believes, and it will also discuss
18 the enhancements.
19 So, this first handout that you have, and Dr. Siddiqui
20 we will give you a copy of course as well, these show how the
21 probation department -- how the government and how the defense
22 calculate what the sentencing guidelines are for this case.
23 So, you remember before I said that the guidelines are
24 no longer mandatory as they once were but they are still a
25 factor, among others, to be considered in fashioning a
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1 sentence.
 2 So, on the charts let's see, if you look for a minute
 3 first at the probation department, the two key determinants are
 4 what is called the adjusted offense level and the criminal
 5 history category. And you will see that in the probation
 6 department's calculations, the adjusted offense level is 51 and
 7 the Criminal History Category is II, and as a result of that a
 8 life sentence under the guidelines is called for on the six
 9 counts that I mentioned before One, Two, three, Five, Six and
 10 Seven, followed by an additional sentence for Count number
 11 Four.

12 And then you see the defense calculation and it is
 13 dramatically different. It concludes that the adjusted offense
 14 level is 27 and that the Criminal History Category is I and,
 15 consequently, that is where the defense is proposing as a
 16 result of that that I sentence to 70 to 87 months on the six
 17 counts that I mentioned before and seven years as a consecutive
 18 sentence.

19 And then, third, in your handout, you will see what
 20 the government says is that the adjusted offense level is 56
 21 and the Criminal History Category is VI and that's why the
 22 government says that the guideline sentence would be life
 23 imprisonment.

24 So, obviously there is a big spread certainly between
 25 the government and the defense, and also a big spread between

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1 their proposals for what the proper sentence should be. In
 2 order to clearly -- you can see from these charts the
 3 difference or one big difference are what are called the
 4 enhancements. I'm going to discuss each of those proposed
 5 enhancements in a minute but you will see that the government
 6 says that all of the enhancements should be found in this case
 7 while the defense says that none of the enhancements should be
 8 found in this case.

9 Then we also have to discuss what are called the
 10 maximum sentences for each count. And then we need to discuss
 11 in determining what the sentence should be whether we will
 12 sentence consecutively or concurrently with respect to each
 13 count. And I will also talk about the finding with respect to
 14 Counts One and Two of no premeditation by the jury.

15 So, let's first start with the enhancements. The
 16 issue of whether there should be and which enhancements apply
 17 is obviously of great importance in this sentence. Simply
 18 stated, the more the enhancements, the higher the sentence
 19 under the guidelines. We make these findings, the Court does,
 20 by it is called the preponderance of the evidence in
 21 sentencing.

22 So, the first proposed enhancement is called the hate
 23 crime motivation or vulnerable victim. And without reading it
 24 entirely it says that, essentially, that the hate crime
 25 enhancement applies if the defendant intentionally selected any

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1 victim on the basis of one of several enumerated factors, and
 2 in this case it is national origin that's at issue. And I am
 3 finding that this enhancement applies. It is a so-called
 4 three-level enhancement. And the reason that it applies is
 5 that the jury verdict, along with the record, support the

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6 application of the hate crime enhancement because the facts
7 make clear that Dr. Siddiqui intentionally selected victims on
8 the basis of their national origin as Americans.

9 Now, we know that from the jury verdict on the counts
10 which specifically mention, for example, Count number One,
11 attempted murder of a U.S. national; Count Two, attempted
12 murder of U.S. officers and employees.

13 So, these -- and even the defense acknowledges that
14 Dr. Siddiqui's actions were aimed at Americans when it states
15 in its submission that it is beyond dispute that Dr. Siddiqui's
16 primary concern was not to be taken to an American prison. I
17 think that's true.

18 And in its more recent submission in September the
19 defense said that when she heard the American troops arrive in
20 the very room where she was detained and, thus, was confronted
21 with the presentation of her worst fears, namely being
22 transferred to the custody of the Americans, she must have
23 freaked out, for want of a better term.

24 The testimony at trial also corroborates these
25 sentiments and does reflect that the selection of Americans as
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1 the object of the offenses occurred because of actual or
2 perceived national origin as Americans.

3 John Jefferson testified that he recalled Dr. Siddiqui
4 saying at that time, and we have noted she has said other
5 things both today and to me, but at that time she said that she
6 hates all Americans and she wants to kill Americans and that
7 they would die by her blood. That's in the trial transcript.
8 And also she said at the time I'm going to kill all you
9 Americans, you are going to die by my blood.

10 And Special Agent Negron -- these are just some
11 examples from the trial testimony -- said that at the time,
12 this is July 18, 2008, that Dr. Siddiqui yelled out: "I want
13 to kill Americans. I want to kill Americans."

14 So, this enhancement, three-level enhancement clearly
15 applies -- not automatically, but because of the factors that I
16 have just enumerated.

17 The second enhancement which I'm also finding applies
18 is called the official victim enhancement, and this essentially
19 says, and this is an oversimplification but rather than read
20 the whole statute, that if the victim is a government officer
21 or employee and the offense was motivated by that status, there
22 is an increase particularly where there is an offense against
23 the person by six levels. That enhancement applies.

24 Federal government officers or employees include
25 members, officers and employees of the United States armed

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1 forces as well as special agents and employees of the FBI,
2 among others. And these were the official victims of these
3 crimes.

4 During the course of instructing the jury I said to
5 the jury that, particularly with regard to the Count Two, among
6 other things but Count Two we can use as an example, attempted
7 murder of U.S. Army officers, I instructed the jury that
8 federal officers include members of the United States armed
9 forces and it is for you, I said to the jury, to determine
10 whether members of the interview team in fact held any of the

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11 titles or positions that we say they did at the time of the
12 alleged attempt.

13 So, for this enhancement to apply it is enough that a
14 defendant knows that the victim is a federal officer and then
15 assaults the officer in an attempt to get away or evade
16 capture. The key factors are knowledge of the victim's status
17 and assaultive conduct motivated by that knowledge. So, that
18 clearly applies here.

19 It was up to the jury to determine, which they clearly
20 did by their verdicts, whether Captain Snyder or other members
21 of the interview team, Chief Warrant Officer, Dawn Card,
22 Special Agent Erik Negron, Special Agent John Jefferson, Ahmad
23 Gul and Ahmad Jawid Amin held their titles or positions at the
24 time of the offense and whether they were engaged in or were
25 targeted on the count of the performance of their official

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1 duties. And, clearly, the jury found that the members of the
2 interview team did hold those titles at the time of the
3 offenses and were targeted on account of the performance of
4 their official duties, otherwise they would not have found the
5 defendant guilty.

6 THE COURT: Also, we have testimony Dr. Siddiqui
7 herself mentioned during the course of the trial that she had
8 heard Americans in the room and did not want to be taken into
9 American custody. The question was posed to her: What did you
10 hear? She said: Well, American voices talking. She also
11 said: I understood they wanted to take me away and that is
12 what I was convinced they were going to do and I wanted to get
13 out.

14 There can be no dispute that Dr. Siddiqui was aware
15 that the individuals present -- and there is no dispute, I
16 don't think -- in the room that day were United States
17 officers, employees or nationals. In fact, Captain Snyder was
18 asked: What did you say about why you were there? And he
19 said: Well, I explained to them that I was Captain Robert
20 Snyder, that I was representing the United States military
21 forces operating in Ghazni Province, that I spoke on behalf of
22 my commander and I that my purpose for being there was to
23 participate in the questioning or detention of the detainee and
24 who she may be.

25 So, that six-level official victim enhancement clearly

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1 applies and in a minute I will show you another handout which
2 has my calculations.

3 Then the terrorism enhancement.

4 Now, this is a very significant one because if it
5 applies, two things happen. First of all, 12 levels are added
6 to the offense and if it applies, the criminal history category
7 automatically bumps up to VI and that goes a very, very long
8 way toward leading, in the guidelines, to a life sentence. So,
9 let's see if that applies.

10 So, this enhancement essentially says that if the
11 offense is a felony that involved or was intended to promote a
12 federal crime of terrorism, increase by 12 levels and the
13 Criminal History Category goes to VI. And what they call
14 application note number 1 to this guideline states that for
15 purposes of this guideline, a federal crime of terrorism means

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16 an offense that is calculated to influence or affect the
 17 conduct of the government by intimidation or coercion or to
 18 retaliate against government conduct. And you have heard the
 19 arguments of both sides here. I think it is clear that this
 20 enhancement also applies and I will tell you why.
 21 First, in attempting to murder U.S. nationals,
 22 officials and employees, as we have described, Dr. Siddiqui was
 23 involved in an offense, particularly Counts One and Two, and
 24 these offense are specifically enumerated in the terror
 25 enhancement guideline.

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1 So, the terrorism enhancement does not hinge upon a
 2 defendant's ability to carry out specific terrorism crimes or
 3 the degree of separation from their actual implementation.
 4 Rather, it is the defendant's purpose that is relevant and if
 5 that purpose is to promote a terrorism crime, the enhancement
 6 is triggered. That comes from the case U.S. v. Salim, 549 F.3d
 7 67, a Second Circuit case from 2008.

8 Second, I conclude that Dr. Siddiqui's offense was
 9 calculated to influence or affect by intimidation the
 10 government's fulfillment of its official duties including,
 11 among other things, the interview team's efforts to interview
 12 her and to detain her.

13 In my view, the calculations started at least the day
 14 before the July 18 incident. And so, we have testimony again
 15 from Dr. Siddiqui who said that she had been -- first she said
 16 begging, but she didn't mean that, not begging but trying to
 17 ask them -- this is now the Afghans, nicely, all night and all
 18 morning, and this is prior to the arrival of the Americans --
 19 Please, don't hand me over. You guys keep me because -- you
 20 guys being Afghans -- they were letting her cover her head and
 21 her face.

22 We also know this from the, again, I think from the
 23 defense submission which says we once again emphasize that the
 24 evidence clearly shows that Dr. Siddiqui was desperate to avoid
 25 being transferred into American custody. And we know it from

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1 the trial record which has -- which is replete with references
 2 to Dr. Siddiqui's efforts to escape from American custody.

3 So, on the 19th this was one answer. She was so
 4 determined not to be taken into our or any kind of U.S. -- of
 5 custody from the United States side that she was going to, I
 6 guess, my opinion is, use every ounce of energy she had to
 7 resist.

8 There is also evidence of the actions and statements
 9 of Dr. Siddiqui immediately before, during and after the July
 10 18 shooting incident which I admitted during the course of the
 11 trial including those references to, "I hate Americans," "I
 12 want to kill you mother" -- and "death to America," and that
 13 she was against foreigners; statements which, as we have heard
 14 she now says may have been taken out of context or that should
 15 have a different interpretation. Statements which also
 16 demonstrate her actions and intent to retaliate against the
 17 United States government.

18 So, we have both prongs of the terrorism enhancement,
 19 both to influence or affect by intimidation and retaliation.

20 With respect to the defense intention that terrorism

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21 enhancement is not co-extensive with the official victims
 22 enhancement, that's contained in one of their submissions, I
 23 agree that they're not the same. But, I also think it is worth
 24 noting that, and this is a quote, a District Court calculating
 25 a guideline sentence may apply multiple guidelines provisions

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1 based on the same underlying conduct where that is the result
 2 clearly intended by the Congress and the Sentencing Commission.
 3 while such calculations may involve double-counting -- this is
 4 the Court talking -- in a literal sense, they do not involve
 5 impermissible double counting. That is a quote from the Second
 6 Circuit in In Re: Terrorist Bombings, 552 F.3d 92, a 2008
 7 decision.

8 So, that this enhancement also applies and there is no
 9 basis that I can discern for departing downward from a Criminal
 10 History Category of VI to I and including the difficulties of
 11 rehabilitation. So, that enhancement applies, that's a 12
 12 level enhancement.

13 Then lastly the last enhancement is obstructing or
 14 impeding justice. This is a two-level enhancement if it
 15 applies. One way one can obstruct justice is providing
 16 materially false information which, if believed, would tend to
 17 influence or affect the issue under consideration. I should
 18 say here that I am not concluding one way or another whether or
 19 not the defendant was malingering in evaluating this
 20 enhancement. I'm going to come back to this and talk about
 21 mental health issues.

22 Malingering, clearly, was an issue. The government's
 23 expert said that there was no serious mental health issues.
 24 They concluded that Dr. Siddiqui was malingering; Saathoff
 25 does, Johnson did, Powers I think did as well. But I'm not --

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1 and I suppose that one could analyze malingering under this
 2 enhancement. I'm not doing that because I believe, and I say
 3 this most respectfully to Dr. Siddiqui, but I believe that she
 4 gave false testimony as to material facts and false trial
 5 testimony, standing alone, is an appropriate basis for imposing
 6 this enhancement for obstruction of justice.

7 So, how do I get to that conclusion? well, the
 8 sentencing Court must find two things: One is materiality that
 9 the statement was essentially important; and second, that it
 10 was uttered or stated willfully.

11 So, first I find that the statements made by
 12 Dr. Siddiqui in Court at trial, they were very clear, they were
 13 very lucid, they were very focus and directed, and they were
 14 also materially material. They were designed to convince the
 15 jury that she did not commit the crimes for which she was
 16 charged. And regrettably they were also, in some instances,
 17 false.

18 So, I had found before she testified, incidentally,
 19 that she had a right to testify and that she fully understood
 20 beforehand her right not to testify and the ramifications of
 21 testifying or not testifying. I had said on the 28th, as we
 22 discussed I think -- this is me talking to Dr. Siddiqui -- you
 23 need to know it is a very important decision. It is a right
 24 that you have but it also will have consequences because --
 25 that is to say if she testified -- because the jury will get to

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1 hear you and form an opinion as to what you are saying and how
2 you are saying it and whether they think it is truthful or not.
3 So, I asked, you realize that it is a very significant
4 decision, that is to say the decision to testify over the
5 objection of her counsel? And she answered: Yes, sir.
6 There was more to that hearing, that's just a snippet
7 of it.

8 And if believed, the testimony would tend to influence
9 or affect the issue under determination. The jury found, among
10 other things, that Dr. Siddiqui intended to pick up the Chief
11 Warrant Officer's M4 rifle, that she did pick up the rifle, and
12 that she discharged it based on the testimony of very credible,
13 in my view, witnesses.

14 Dr. Siddiqui testified to an entirely different
15 version of material facts. She said that she never intended to
16 pick up the rifle and that she did not ever pick up the rifle
17 or that she discharged -- she said she did not discharge the
18 rifle. And I am finding that those statements were not true.

19 She further testified that she could not have
20 discharged the weapon because she did not know how to operate a
21 firearm and had never had weapons training. These facts too,
22 if believed, would have tended to exculpate her because they
23 were material to establishing the elements of attempted murder.

24 So, for those reasons I think that the testimony
25 related to material facts and was given to confuse the jury or

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1 prevent the jury from finding her guilty.

2 Now, as to willfulness. I also find that her
3 statements were willful and, as noted, intended consciously to
4 mislead the jury and obstruct justice.

5 Again her testimony was lucid, clear and cogent and
6 not the least bit confusing, rambling or incoherent, but her
7 testimony was directly contradicted by numerous credible
8 witnesses. So, one case has said, accordingly, and that
9 applies here, the evidence and verdict persuades this Court
10 that the defendant knew at the time of testifying that the
11 statements to which in this case she testified were untrue.
12 And the Court does not find, as the defense suggests, that
13 these inconsistencies in the testimony was the by-product of a
14 mentally ill person testifying on her own behalf.

15 So, without belaboring it, examples of the testimony.
16 Dr. Siddiqui was asked if she ever picked up an M4 rifle and
17 aimed it at anybody and she responded: Of course not.

18 And when asked if she ever fired a rifle she said:
19 No, no. In fact, let me tell you, an M4 rifle, I heard about
20 it but the first time in my conscious recollection I can tell
21 you what it looks like is when I saw it here in court. All of
22 this time I have been wondering what does an M4 look like. I
23 recall asking somebody if that is a pistol or a bigger rifle.

24 Another instance, when asked about herself being shot
25 she answered: I could feel blood and at that point I just

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1 fainted on a bed. I couldn't move. I was thinking -- I
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2 remember I was able to think but unable to move my hands and
3 feet.

4 But, Special Agent Jefferson testified, among other
5 things, that even after being shot she was combative and fought
6 with members of the interview team. Eric Negron said that he
7 was fighting with the female and trying to attend to the wound
8 that she had sustained. And he was asked then: How were you
9 fighting? He answered: He basically was trying to control her
10 hands. She was punching at him and she was trying to control
11 or restrain -- and he was trying to control and restrain her
12 hands.

13 And also when asked: Isn't it true in the early 1990s
14 when you were a student at MIT you took a pistol course at the
15 Braintree Rifle and Pistol Club just outside of Boston, is that
16 true? She replied: I have no recollection of that.
17 Absolutely not.

18 And when asked: Ma'am, you have some familiarity with
19 firearms, don't you? She said: No, I don't. I look at a gun
20 and I know it is a gun but I couldn't tell the different brands
21 of them, how to use them, operate them, those kinds of things,
22 no.

23 But you recall that Gary Woodworth testified credibly
24 that he in fact had instructed Dr. Siddiqui at the Braintree
25 Rifle and Pistol Club on how to, among other things, handle a
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1 firearm, load and unload the safety of a firearm, and fire a
2 pistol.

3 And one more example: The Chief Warrant Officer
4 testified credibly that he saw a woman squared off in the room
5 with his rifle:

6 "A It all, like, happened. I looked, and as I looked there
7 was my rifle, I mean, squared off. There was a woman squared
8 off, squared off in the room.

9 "Q When you say the woman was squared off, what do you mean?
10 How did she appear? What was she doing?

11 "A It was an aggressive stance. It was as I would do it with
12 all my years of training."

13 So, those are the enhancements. I'm going to give you
14 a handout now that shows you my calculations of the sentencing
15 guidelines. You will see that because of the enhancements --

16 MR. LAVIGNE: Judge, just one quick question. The
17 base offense level was also disputed.

18 THE COURT: I know. I'm going to get to that.

19 MR. LAVIGNE: Sorry, Judge.

20 THE COURT: So, in this handout you have my take on
21 the guidelines, two versions from me, one -- and this relates
22 to the issue of premeditation that we are going to have to talk
23 about in a minute, too.

24 One set of -- one guideline calculation by me arrives
25 at an adjusted offense level of 56 and a Criminal History

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1 Category of VI that gives rise to a life guideline range plus a
2 sentence for Count Four, but you also see I did a calculation,
3 that first calculation assumes premeditation. I also did a
4 calculation which you have in this handout which assumes no
5 premeditation, and in some senses it just doesn't matter
6 because you will see in the no premeditation handout that even

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7 if you start with a lower base offense level of 27 instead of
 8 33, because of these enhancements you still wind up with a
 9 guideline range of life.
 10 And so, it really -- I mean, to minimize it, but it
 11 really doesn't matter if you find premeditation or you don't
 12 find premeditation for the ultimate guideline analysis.
 13 Because of the enhancements it's a life guideline range in both
 14 instances. But, it is on the table so let's spend a couple of
 15 minutes talking about premeditation.
 16 My recollection, incidentally from the trial, was that
 17 it was the government who proposed that we ask the jury to,
 18 with respect to Counts One and Two, to, if, after they
 19 determine and only after they determine that there was a guilty
 20 verdict on Counts One and Two, they were then asked to
 21 determine whether there was premeditation. The government can
 22 speak for itself, but I presume that they were talking about
 23 the difference between first degree murder and second degree
 24 murder. First degree murder would have pre meditation, second
 25 degree murder would not and that, ultimately, as you see, could

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1 affect the guideline range. But, again, the reason I say it
 2 doesn't matter, I mean in a practical sense, even if you
 3 conclude that there is no premeditation you get to a life
 4 guideline range.
 5 But I think there is a basis for finding premeditation
 6 by the Court and it would be as follows.
 7 By the way, I think that, somewhat ironic, but the
 8 government proposed the premeditation special verdict and the
 9 defense opposed it. It makes no difference where it came from,
 10 it was there and we have to deal with it.
 11 So, again, what I'm trying to say is the presence or
 12 absence of premeditation goes to whether Counts One and Two may
 13 be considered attempted murder in the first degree or attempted
 14 murder in the second degree. Whether or not the government
 15 asks me to do, make a separate premeditation determination or
 16 not, will not affect the guideline determination of life
 17 because of these findings that I have just made with respect to
 18 the enhancements.

19 The rules that apply are these, as I understand them,
 20 post the Booker decision. District Courts remain statutorily
 21 obliged to find facts relative to sentencing upon a
 22 preponderance of the evidence even where the jury acquitted the
 23 defendant of that conduct as long as the Judge does not do one
 24 of three things: (1) impose a sentence in the belief that the
 25 guidelines are mandatory, and as you have heard I have no such

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1 belief they were not any longer mandatory; or (2) impose a
 2 sentence that exceeds the statutory maximum authorized by the
 3 jury verdict. We have to talk about the maximums in a minute
 4 but I'm not intending to impose a sentence that exceeds the
 5 statutory maximum for Counts One, Two, Three, Five, Six and
 6 Seven, or impose a mandatory minimum sentence not authorized by
 7 the verdict. I don't think I'm going to do that either.

8 So, there is sufficient evidence in the record for the
 9 Court to find, by a preponderance of the evidence, that
 10 Dr. Siddiqui acted with premeditation, if it mattered, and the
 11 reasons are, first of all, there is evidence that her motive

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12 supports a finding of premeditation by a preponderance of the
 13 evidence, that she wanted to kill Americans and she wanted to
 14 escape.

15 Again, there is testimony, it was very clear in my
 16 mind one of the witnesses said what her intentions were: To
 17 shoot, to shoot at us, to shoot at me. Another statement is:
 18 I can only describe she was so determined not to be taken into
 19 our -- into any custody from the United States. And, her
 20 actions also demonstrate a reflection, in my judgment, she
 21 anticipated the possibility of being turned over to Americans
 22 on July 17, she said that. And, the Chief Warrant Officer and
 23 Captain Snyder also announced their presence and purpose to the
 24 Afghan officials before the shootings giving Dr. Siddiqui
 25 sufficient time, in a legal sense, to develop and reflect on

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 1 her decision prior to her attempt to kill them. They were
 2 asked why were you there, that is to say Captain Snyder, and he
 3 said, sir -- and I said this before -- I explained to them --
 4 in the room this is now for all to hear, presumably -- that I
 5 was captain Robert Snyder, that I was representing the U.S.
 6 military forces operating in the Ghazni Province, that I spoke
 7 on behalf of my commander and that my purpose for being there
 8 was to participate in the questioning or determination of the
 9 detainee, who she may be.

10 And the case law is clear that threats made before a
 11 killing or attempted killing are relevant to a finding of
 12 premeditation.

13 So, having assessed the weight and quality of the
 14 evidence presented by the prosecution in determining a
 15 reasonable sentence I find, by a preponderance of the evidence,
 16 that the acts One and Two -- Counts One and Two were committed
 17 with premeditation and that would mean that the base offense
 18 level is 33 rather than 27. But, again, I don't think it makes
 19 a practical difference here in the sentence because
 20 irrespective of that base offense level, if it were 27 or 33, a
 21 life sentence is proposed within the guidelines.

22 So, now we need to talk about some more legal
 23 concepts; one is the maximum sentence. As you know, the Court
 24 cannot compose and assess, as I just said, the maximum for a
 25 particular count and so we need to know what the maximums are.

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 1 You have that also in this second handout.
 2 The maximums for Counts One, Two and Three are 20
 3 years for each count, and the maximums for Counts Five, Six and
 4 Seven are eight years. With respect to Count Four, I hope I
 5 made clear earlier that under the sentencing law Count Four
 6 requires a consecutive term, and in this case I think that of
 7 at least 10 years is legally required because I am also finding
 8 that Dr. Siddiqui discharged the weapon, as the jury found; the
 9 upper range of Count Four is life imprisonment.

10 So, the range for Count Four alone, in my opinion, is
 11 a minimum of 10 years and a maximum of life.

12 It is my finding, indeed beyond any doubt, certainly
 13 beyond a reasonable doubt based on the trial record including
 14 the testimony and witnesses, that the defendant in fact, as I
 15 say, discharged a firearm and as a result a 10-year consecutive
 16 mandatory minimum applies to Count Four. This finding, in my

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17 view, is in no way diminished by the significant action report
 18 referred to by the defense which was recently declassified and
 19 was attached to the government's letter of August 23, 2010 and
 20 it is part of the docket and the public file.

21 So what this means, in a practical sense, is that the
 22 maximum possible sentence in this case for Counts One, Two,
 23 Three, Five, Six and Seven is 84 years of incarceration
 24 followed consecutively by a sentence, the maximum of which
 25 Count Four is life. I believe you understand that from what I

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1 have said before.

2 And then just a note about supervised release.
 3 Following incarceration, Counts One and Four carry a maximum
 4 term of supervised release of five years. Counts Two, Three,
 5 Five, Six and Seven carry a maximum term of supervised release
 6 of three years. And I would intend to impose five years for
 7 Counts One and Four concurrently, plus three years for Counts
 8 Two, Three, Five, Six and Seven also concurrent. So, five plus
 9 three, eight years.

10 Now comes the very crucial determination. Do we
 11 sentence concurrently or do we sentence consecutively.

12 This, combined with the findings in the enhancement,
 13 is of course obviously very significant to what sentence we
 14 impose. I'm going to run the sentences consecutively in
 15 accordance with the sentencing law.

16 I have considered all of the 18 U.S.C., Section
 17 3553(a) factors as they apply to each of the seven counts of
 18 conviction and I'm going to go through those factors in
 19 addition to the ones I have already been through in just a
 20 couple of minutes.

21 There is a legal point raised by defense counsel.
 22 They appear to argue in a recent submission that Counts Two and
 23 Three cannot be run consecutively, and they say that I think in
 24 the footnote at page 14 of their reply but I don't think that's
 25 true. I don't think that Counts One, Two and Three are what we

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1 call multiplicitous in that they contain different elements and
 2 each requires proof of facts that the other does not. The
 3 citation for that is United States v. Larsen, 2010 WestLaw
 4 3024883 from the Seventh Circuit. And also I am relying, in
 5 part, this is a pre-Booker case but it is instructive, United
 6 States v. Mcleod, 251 F.3d 78, a Second Circuit case from 2001.

7 MR. LAVIGNE: Your Honor --

8 THE COURT: So as I am intending to do, I believe --

9 MR. LAVIGNE: Your Honor, just before your Honor does
 10 impose sentence there were a couple items I wanted to go
 11 through. I'm happy to do that at the end.

12 THE COURT: I'm not there yet.

13 MR. LAVIGNE: Okay, Judge.

14 THE COURT: I'm afraid -- I know it is a little long
 15 and I'm probably boring but I'm not at the stage of imposing
 16 the sentence yet.

17 Did you have an objection to anything that's been said
 18 so far?

19 MR. LAVIGNE: Just a couple points I wanted -- one
 20 specific objection and a couple points. I'm happy to do it now
 21 or I can do it later.

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22 THE COURT: Go ahead.
 23 MR. LAVIGNE: On Count One I believe the maximum term
 24 of supervised release is three years, not five years, because
 25 the statutory maximum is 20 years, that was in the PSR, that
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 1 was something we intended to flag for the Court.
 2 THE COURT: What was it stated in the presentence
 3 report? Five?
 4 MR. LAVIGNE: In the presentence report, paragraph 91,
 5 I believe it said that there was a five-year maximum term of
 6 supervised release on Count One.
 7 THE COURT: You think that's wrong?
 8 MR. LAVIGNE: I do. I think it is three years.
 9 THE COURT: Do you want to give us the cite? I would
 10 be happy to stand corrected.
 11 MR. LAVIGNE: I believe it is Title 18, U.S. Code
 12 Section 3583. And because Count One is a Class C felony the
 13 maximum term of supervised release is three years; 3583(b)(2).
 14 THE COURT: Yes.
 15 MR. LAVIGNE: And one other point, your Honor?
 16 THE COURT: You agree that Count Four carries a five
 17 year maximum?
 18 MR. LAVIGNE: I do, Judge, because it is a class A
 19 felony.
 20 THE COURT: Okay. That would not affect the outcome,
 21 but fine. That's fine.
 22 MR. LAVIGNE: Right.
 23 And a couple times regarding Count Four the Court has
 24 said the jury found that Aafia Siddiqui discharged the firearm.
 25 The jury did not -- and I know the Court is aware of this
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 1 because the Court made a finding, but just for the record the
 2 jury did not find that. They found that she carried and used a
 3 weapon on that day. That's a finding for the Court.
 4 THE COURT: I found it based on the testimony at
 5 trial.
 6 THE DEFENDANT: I --
 7 THE COURT: Hold on one second Ms. Siddiqui.
 8 MR. LAVIGNE: And again, just a minor point for the
 9 hate crime enhancement; I believe the Court indicated that that
 10 applies given the jury's verdict which, obviously, was beyond a
 11 reasonable doubt. The Court also indicated all these
 12 enhancements are found by a preponderance of the evidence, but
 13 the guideline does state for a hate crime it has to be beyond a
 14 reasonable doubt.
 15 THE COURT: Yes, and that is my conclusion and it is
 16 my conclusion, as well.
 17 MR. LAVIGNE: And the only other thing, Judge, is
 18 we're aware that Ms. Sharp, at the outset of the sentencing,
 19 indicated she reviewed the July 2010 PSR with Ms. Siddiqui and
 20 attempted to review, I believe, it was recent filings. We just
 21 want a confirmation, our understanding is those filings
 22 included the most recent version of the PSR in that she
 23 attempted to speak with Ms. Siddiqui about it and that she had
 24 the -- Ms. Siddiqui had the opportunity to review it.
 25 MS. SHARP: I did, indeed, try to share that
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1 information with Dr. Siddiqui but she did not wish to receive
2 it.

3 THE COURT: Okay. Fair enough.

4 MR. LAVIGNE: Thank you, Judge.

5 THE COURT: You bet.

6 Did you want to be heard again?

7 THE DEFENDANT: Yes, sir.

8 I just -- again, as I said, I'm not going to clarify
9 personal things because I'm content with God's will, I really
10 am, so don't worry. Tell the Muslims, please, don't get
11 emotional. I'm okay.

12 I have to clarify just one thing, sir. Thanks to God
13 my memory has improved quite a bit. I remember very clearly
14 from the trial time the instructions given to the jury because
15 I'm constantly hearing the jury, the jury, the jury, the jury.
16 This is very significant because the jury is American. Okay?
17 And I do know, maybe I'm not allowed to say that because I was
18 informed by one of the attorneys that the jury will give me a
19 non-guilty verdict but then the verdict changed. Here is one
20 thing, significant. This was the day before.

21 I have to say this because, again, it is very
22 significant related to my case internationally so please hear
23 me out. And I am saying this, everyone is here, if I'm, God
24 forbid, lying, check out the records, unless they have been
25 changed because that happens in this court, unfortunately, that

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1 what is said is not always what is recorded, in my case
2 especially.

3 But, in any way, I do recall very clearly, this is my
4 recollection, the respected judge had said to the jury, given
5 the instructions that this interpretation of the law which the
6 jury is required to follow is that if there is a fire -- and
7 I'm not quoting the exact words because I don't remember the
8 words but I definitely remember the theme, the meaning -- that
9 if there is a weapon, firearm present in the room and I --
10 accessible, that is interpretation of the law.

11 THE COURT: Excuse me, is what? I didn't hear. If
12 there is one present in the room?

13 THE DEFENDANT: Yes; if there is a weapon that is
14 accessible to me.

15 THE COURT: Oh.

16 THE DEFENDANT: That that, in his opinion of the
17 interpretation of the law, is that I'm guilty without
18 reasonable doubt of whatever, you know, you heard. One.

19 Second, if I say I don't want to go with you to people
20 who have done whatever they did to me, then I'm guilty of
21 assault and the rest of the charges. And he kept saying that,
22 at least more than once I heard it, that the jury has to follow
23 his interpretation of the law even if they disagree with it.

24 This is very important so I'm mentioning it and I'm
25 not blaming you, sir.

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1 THE COURT: No, no. That's fine.

2 THE DEFENDANT: Because, as I said, this is a state

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sponsored thing. A person may be under pressure from a foreign government or somebody that they have to do whatever and then they do it. So I don't blame anybody but I have to mention that because American juries -- the American jury, no, that's not true. The American jury -- and a lot of them were even Jewish people, they were not going to sentence me that easily. They were made to do that.

I have to say that.

THE COURT: Fair enough.

THE DEFENDANT: And the last thing, because I was cut short, I just wanted to finish, I want to ask the Muslims one thing. Since this has become being made a very emotional issue, there is a verse of the Qur'an which actually applies to everybody, it is I believe Hujuraat verse number, I don't know, 6 or 7, which says that if you get news from a source that is not, I don't know, that simple, that is not, you know, trustworthy, verify it unless if you don't -- and I may get it wrong but does anyone know the reference number? It is I think chapter 49, verse 6 or 7, but that you should verify it. If not, that you may take an action against people and regret it later on.

This is very important, especially in my case. There are so many rumors, oh my God. And pretty much all of them are

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not true so, for God's sake, if you hear she's been tortured to death in prison do not do anything, do not believe it. You know? If you can verify it to any verifiable means, pray to God and leave it at that. Okay? I don't want any violence in my name, please.

But, I do want people to take this opportunity if you want to do anything for me, please educate the people who don't know about Islam about it because people do not know that this is actually a religion of mercy and it will take away a lot of the problems.

In prison people have come to me, the psychology department, asking for recommendation on how do you cope with anger? How come you are so happy? Because I was all smiles and laughing and joking after I got the verdict, don't ask me why. Because God put contentment in my heart. And I am still very content. Whatever he gives me I don't have a problem because I know it is God in charge. Okay?

So, you have to tell the people that if they get it right and it took me years of, you know, suffering to get it right, finally -- I hope I got it right now -- that it will really bring peace not only to themselves but around to everybody. And I feel really sad that so many people are missing out on it.

So, this is a collective responsibility.

And I am also saying this because God again showed

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me -- this is all I got, I got me and God in my prison cell so he does show me dreams that I never used to have before. I saw Prophet Jesus, peace be upon him, and that he has come and the context of it is long so I won't go over the whole details, but the gist of it is it is our responsibility, especially to words of followers of Jesus, peace be upon him, to tell the truth about him which he will, you know -- and know that, you know,

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8 God knows maybe time is close, I don't know.
 9 But, it is our responsibility to at least those people
 10 because the Christians that I have encountered a lot, I have I
 11 talked religion a lot with them. They're very good people,
 12 there is always agreement only a little bit disagreement, there
 13 is a lot of room for constructive talk. Do not demonstrate, do
 14 not get into anything negative. There is no point. God is in
 15 charge. Nobody knows. And when God has written, believe me,
 16 he has written for me to come out of prison I am going to come
 17 out. If he has the written for it -- hey, I was kept in secret
 18 prison for years, people thought I was dead, whatever. So, it
 19 was written for me so it happened. I am content thanks to
 20 Allah.

21 That's it.

22 THE COURT: So, the upshot of my analysis is that a
 23 sentence of significant incarceration is called for in this
 24 case.

25 We have been through the sentencing analysis, it is
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 1 complicated and somewhat technical, but the conclusion that a
 2 significant incarceration is appropriate seems to me completely
 3 obvious and indeed compelled both by the jury verdict and the
 4 relevant factors under our sentencing laws 18, United States
 5 Code, Section 3553(a).

6 Relatedly, a significant incarceration is also
 7 compelled by what I was talking to Ms. Cardi about, the
 8 likelihood, in my judgment, of recidivism, the difficulty of
 9 rehabilitation, and the need for what is referred to in the law
 10 as incapacitation. That's a quote from U.S. v. Benkahla, 501
 11 F.Supp.2d 748 from the Eastern District of Virginia, 2007.

12 And my other, another concern is that assuming
 13 arguendo that the mental health issues are at play here which,
 14 as you will hear in a minute because I'm going to spend some
 15 more time on mental health, they're disputed; but, in any case
 16 no one has proposed any, in my opinion, salutary treatment or
 17 prognosis for Dr. Siddiqui to ensure that the same type of
 18 behavior which occurred on July 18, 2008 -- and of course I
 19 don't mean the identical behavior but that kind of behavior --
 20 would not happen again if she were at liberty. I regret to
 21 conclude that, but I do.

22 Also, regrettably, she has not -- well, today she says
 23 she has cooperated, but historically --

24 THE DEFENDANT: I just don't think that I am sick.

25 THE COURT: Fair enough. That's fair enough.

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 1 THE DEFENDANT: I donate to them a lot of books that I
 2 got in the mail. They were so happy. The favorite was how to
 3 achieve happiness. It is an excellent book.

4 THE COURT: Fair enough.

5 And I add here, by the way, as you said before, that
 6 you have written to me stating that you are standing for peace
 7 and justice.

8 THE DEFENDANT: Yes, sir. That's my wish. I mean, I
 9 wish peace everywhere.

10 THE COURT: So, believing -- I believe, regrettably,
 11 in a sense, that because of the reasons I have said at the
 12 outset that a total punishment should be 76 years on six

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13 counts, One, Two, Three, Five, Six and Seven; 20 years on Count
 14 One, 20 years on Count Two, 20 years on Count Three. With
 15 respect to Five I think it should be eight years. With respect
 16 to Count Six and Seven I believe that it should be four years
 17 each. I have distinguished somewhat between the assault
 18 against Interpreter Gul who fought with Dr. Siddiqui vigorously
 19 to subdue her while she held on to an M4 and jeopardized his
 20 life and those against Captain Snyder and Agent Negron, with
 21 whom Dr. Siddiqui struggled forcibly but after the weapon had
 22 been taken from her. I also, with respect to Count Four,
 23 intend to impose a 10-year sentence which, under the law, I
 24 must run consecutively.
 25 And so, the total would be a sentence of 86 years of

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 1 incarceration.

2 AUDIENCE MEMBER: Shame, shame, shame on this Court.
 3 THE COURT: If you are going to make another outburst
 4 I will have you excluded.
 5 We hear you. That's inappropriate in this court. So,
 6 it is up to you. Do you want to stay and be cooperative or do
 7 you want to go?
 8 (No response)
 9 THE COURT: I will take that as a cooperative. If
 10 there is another outburst I'm going to have you excluded from
 11 the courtroom.
 12 So, I have discussed the nature and circumstances of
 13 the offenses and partly explained the history and
 14 characteristics of the defendant which I have also described.
 15 The defense submission and also their oral presentation argues
 16 that for someone who suffers paranoid ideations such as
 17 Dr. Siddiqui, the circumstances of a team of American soldiers
 18 coming into a room where she is held captive where her biggest
 19 fear is being transferred into the custody of Americans and
 20 brought to Gitmo must have been terrifying. The government
 21 responds that, at trial, Siddiqui put to rest any issues
 22 regarding her competency as she was able to answer questions
 23 deftly, maneuver around the questions, put forward her defense,
 24 and clearly communicate themes that she viewed as central to
 25 her defense.

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1 So, we need to talk a little more about the mental
 2 health analysis before we can conclude and briefly about some
 3 of the other factors in 18, United States Code, Section
 4 3553(a).
 5 By order dated July 29, 2009 I found the defendant
 6 competent to withstand trial. I also find that mental issues
 7 do not vitiate any of the intent elements for any of the
 8 offenses of conviction. The record on this subject is
 9 thorough, if somewhat inconsistent.
 10 In response to my October 1, 2008 order, psychological
 11 evaluations and conclusions, as a result, were reached. They
 12 were reports dated November 6, 2008 and May 4, 2009 by Lesley
 13 Powers, Ph.D, forensic psychologist, United States Department
 14 of Justice, Federal Bureau of Prisons. You recall that
 15 Dr. Powers' initial report concluded that she thought
 16 Dr. Siddiqui was incompetent and, in her final report dated May
 17 4, 2009, she concluded, in her professional opinion, that

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18 Dr. Siddiqui was currently competent to stand trial.
 19 Dr. Sally Johnson, professor at the Department of
 20 Psychiatry of the University of North Carolina at Chapel Hill
 21 said that she concluded that her evaluation was that
 22 Dr. Siddiqui was competent to stand trial at the time.
 23 Dr. Gregory Saathoff, a diplomate at the American
 24 Board of Psychiatry and Neurology concluded, in his opinion,
 25 Dr. Siddiqui has sufficient present ability to consult with her
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1 lawyers with a reasonable degree of rational understanding and
 2 that she maintains a rational, as well as factual,
 3 understanding of the proceedings against her.
 4 Dr. Kucharski, who we discussed somewhat today who is
 5 the Chair of the Department of Psychology at John Jay College
 6 of Criminal Justice, he concluded then that it was his opinion
 7 that Dr. Siddiqui is currently not competent to stand trial.
 8 You recall also that Dr. Powers concluded that she
 9 thought that Dr. Siddiqui was malingering which in the DSM-IV
 10 is defined as the intentional production of grossly exaggerated
 11 psychological symptoms motivated by external incentives such as
 12 evading criminal prosecution.
 13 Dr. Johnson also determined that in her judgment
 14 Dr. Siddiqui was malingering. She mentioned that during her
 15 evaluation Dr. Siddiqui was unable to expand upon her symptom
 16 description in a way consistent with usual reports of visual
 17 hallucinations. And, Dr. Saathoff concluded that he did not
 18 see convincing evidence of major mental illness from
 19 Dr. Siddiqui. He said that her constellations of varied
 20 dramatic evolving symptoms that she uses to crowd the canvas
 21 are much more consistent with malingered mental illness than
 22 true mental illness.
 23 Dr. Kucharski then, at that time, concluded that no
 24 direct formal assessment of Dr. Siddiqui's competency to stand
 25 trial was possible and no evaluator had been able to question
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1 her about her factual and rational understanding of the
 2 proceedings against her or to assess directly her ability to
 3 assist counsel because she did not cooperate with him.
 4 She acknowledged, he said, to brief fleeting visions
 5 of her children of a man standing outside her cell and of a dog
 6 eating off a plate. These visions appeared to be hypnogogic
 7 experiences and not true visual hallucinations. There appear,
 8 he said, to be no auditory, tactile, or olfactory
 9 hallucinations. Significant depression had been noted
 10 throughout her incarceration.
 11 Dr. Kucharski concluded that Dr. Siddiqui was
 12 suffering from a delusional disorder and that she was
 13 depressed. He noted that while some of her beliefs were
 14 consistent with radical political ideology typical of militants
 15 dedicated to jihad -- this is his opinion -- many others exceed
 16 political ideology. For example, he said, her belief that
 17 Israel, United States and India are conspiring to invade
 18 Pakistan, that Jews are responsible for 9/11 and have
 19 infiltrated American political and governmental organizations
 20 are not bizarre in the cultural context in the militant jihad
 21 beliefs. He also said that just because they are consistent
 22 with radical jihadist ideology does not exclude the possibility

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23 that they can be so extreme as to be delusional -- of
 24 delusional proportions.
 25 More recently, on behalf of the defense Dr. Rosenfeld,
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1 Barry Rosenfeld in a submission dated July 13, 2010 concluded
 2 that there was considerable evidence to support the conclusion
 3 that Dr. Siddiqui suffers from a genuine and severe mental
 4 disorder. On the other hand he says the possibility of
 5 malingering cannot be conclusively ruled out. His opinion is
 6 that a diagnosis of paranoid schizophrenia or schizoaffective
 7 disorder appears to be the most plausible explanation for the
 8 symptoms and observations.
 9 In response to his report the government asked
 10 apparently Dr. Johnson and Dr. Saathoff to, at my request, I
 11 might add, to respond. And they did. And they still maintain,
 12 that is to say Dr. Saathoff concludes that, still, this is as
 13 of September 13, 2010, Dr. Siddiqui does not suffer from a
 14 major mental illness requiring medication or treatment. He
 15 says in fact that compared to her prior behaviors leading up to
 16 her competency determination she has demonstrated remarkable
 17 stability and that she has demonstrated a great deal of
 18 resiliency under the stressful circumstances of trial,
 19 conviction, and sentencing. He goes on to say a good deal more
 20 but I think that is sufficient for our purposes for now because
 21 we are running quite long.
 22 Sally Johnson also concludes that having reviewed
 23 additional information she does not find more support for the
 24 presence of a serious mental disease or defect historically in
 25 Dr. Siddiqui.

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1 So, I have taken all of these and I think we need to
 2 take all these reports into account. I mentioned my concern
 3 before that no one has proposed a prognosis or therapy or
 4 medication. Dr. Siddiqui has said that she doesn't feel she
 5 needs it. She certainly is not obliged to be cooperative in
 6 that respect but I am concerned about the absence of any
 7 psychological road map or path but I what I will do is, during
 8 the period of incarceration, is recommend that there be
 9 periodic assessments and follow-up treatment, if warranted, and
 10 if medication is called for, that it be suggested. I really
 11 don't know what the prognosis or what the outcome would be
 12 because I don't, at this point, have reason to believe that she
 13 would be cooperative. But, I will recommend it.
 14 I am also recommending that she be housed again at FMC
 15 Carswell in Texas where she was housed before. Among other
 16 reasons, so that she can be near where her brother lives, as I
 17 understand it.
 18 So, the other factors under 18, U.S.C. 3553(a), the
 19 seriousness of the offense, promoting respect for the law,
 20 providing a just punishment.
 21 The offenses for which Dr. Siddiqui was convicted are
 22 very serious in nature as reflected by the case law, that is to
 23 say comparing this result with other cases.
 24 Adequate deterrence to criminal conduct. Here I have
 25 considered not only specific deterrence which involves

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1 deterring the person who has been convicted so as to protect
 2 society, among other things, but also general deterrence which
 3 is defined as deterring others from committing the same crime
 4 by demonstrating its disadvantageous consequences. And here,
 5 again, I think that a lengthy sentence is required both for
 6 purposes of specific deterrence and general deterrence.

7 With respect to specific deterrence I have said now
 8 several times no one has suggested a plausible therapy or one
 9 that which Dr. Siddiqui is likely to cooperate in, at least not
 10 yet, and so there is no way to assure that the incidents found
 11 by the jury would not, in some form or fashion, happen again if
 12 she were at liberty.

13 With regard to general deterrence, it is just
 14 axiomatic that serious offenses such as these, attempted murder
 15 and assault of U.S. nationals and U.S. employees and U.S.
 16 officials must be deterred and when they occur they must be
 17 punished significantly.

18 I also find that the public would be at risk of danger
 19 if Dr. Siddiqui were at liberty although she has, on so many
 20 occasions, stated that she is a person of peace. I'm not sure
 21 that that would be the result, and to the extent that there are
 22 mental health issues and particularly if no cure or therapy is
 23 proposed, that it would be successfully administered.

24 I believe that, as I have said, further mental health
 25 assessments and/or treatment are warranted during the term of

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1 incarceration. The prognosis, I think, has to be guarded
 2 because of the lack of cooperation so far.

3 And I will recommend that the Bureau of Prisons
 4 evaluate Dr. Siddiqui again periodically with respect to both
 5 treatment and medication. I will also recommend to the Bureau
 6 of Prisons and to Dr. Siddiqui's family members, if they are
 7 willing and able to help out, that she receive therapeutic
 8 counseling while incarcerated, if warranted, by an assessment.

9 I realize that she may not cooperate with such
 10 counseling or medication but I do note that at FMC Carswell in
 11 the past had some success in communicating with her and, while
 12 there she appeared, at least to me, to have developed
 13 relationships with some of the staff and other members of the
 14 population. And so, as I say, I am going to recommend that she
 15 be incarcerated there.

16 As to the kind of sentences available, incarceration
 17 is the only one that's appropriate. We have talked about the
 18 sentencing guidelines, we have talked about policy statements
 19 issued by the sentencing commission and as to the need to avoid
 20 unwarranted sentence disparities among similarly situated
 21 defendants. I have also canvassed the case law and while some
 22 may disagree, I think that while no case is exactly like this
 23 one, I think that the sentence is not unwarrantedly disparate.

24 Restitution is not an issue in this case.

25 So, that is the analysis. If anybody from the counsel

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1 table wishes to be heard further or Dr. Siddiqui, I am happy to
 2 hear you.

3 Hold on one second. Any of the lawyers want to be

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4 heard? Government?
 5 MS. CARDI: No, your Honor.
 6 THE COURT: Defense.
 7 MR. LAVIGNE: Just very briefly, Judge.
 8 I just wanted to confirm that Court has obviously
 9 resolved all the guidelines issues that the defense had in
 10 other objections to the PSR.
 11 THE COURT: Yes, we are coming to that.
 12 Yes.
 13 THE DEFENDANT: I just want to say one thing.
 14 I am one person and the Prophet Mohammed, peace be
 15 upon him, forgave all his personal enemies no matter how many
 16 how much injustice. And we all know, people who know him, how
 17 much he suffered but he never took personal revenge. He did go
 18 after people for other reasons but not for personal revenge
 19 ever.
 20 Forgive everybody in my case, please. From even in
 21 the future what they may potentially do to me. If I'm
 22 forgiving them and I have -- even I announced during the trial
 23 forgave the two soldiers who shot me, so just forgive them,
 24 please. Don't get angry. If I'm not then nobody else should.
 25 Just, the world is full of injustices. You can strive
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 1 in many ways to make the world a more livable, peaceful place
 2 and if I know that people are doing that because I said that,
 3 that would make me so happy. You know? It would just, you
 4 know.
 5 So that's clear, right?
 6 Thank you.
 7 THE COURT: Thank you.
 8 THE DEFENDANT: And the also forgive Judge Berman. I
 9 didn't say that because I want the anger to be directed to him,
 10 the point about the jury. That was just a clarification. I'm
 11 not recommending being angry at anybody for me.
 12 THE COURT: Let me tell you, I appreciate it.
 13 THE DEFENDANT: No problem.
 14 THE COURT: And I wish more defendants would tell it
 15 the same way that you do.
 16 THE DEFENDANT: Thank you.
 17 THE COURT: So, are there any further objections to
 18 the contents of the presentence report apart from what have
 19 been submitted on the record?
 20 MS. CARDI: No, your Honor.
 21 THE COURT: Anything from the government?
 22 MR. LAVIGNE: No, your Honor.
 23 THE COURT: Any further objections, Dr. Siddiqui? Do
 24 you have any further objections to note?
 25 THE DEFENDANT: What do you mean further objections?
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 1 THE COURT: Well, I have heard you.
 2 THE DEFENDANT: I have too many but I am not saying
 3 them --
 4 THE COURT: Well, you can.
 5 THE DEFENDANT: -- because people will spend the rest
 6 of the day here.
 7 THE COURT: So, what I usually do is --
 8 THE DEFENDANT: You can ask if I agree with anything,
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that would be wonderful and take less time.

THE COURT: I don't expect that you do and there is no obligation that you do. I think, as a matter of fact, speaking from my perspective, you were very articulate and eloquent in stating the positions that you did state. And, frankly, I appreciate that.

THE DEFENDANT: Thank you.

THE COURT: So, I'm going to adopt the findings of fact and presentence report unless defense counsel, I will ask one more time if there is any further objections.

MS. CARDI: No, your Honor.

THE COURT: Government?

MR. LAVIGNE: No, your Honor.

THE COURT: And I will assume that Dr. Siddiqui is also all set there?

So, I think we should move right to the imposition of the sentence. Just bear with me for one moment.

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So, having considered the factors at 18, United States Code, Section 3553(a), it is my judgment that Dr. Siddiqui be sentenced to a period of incarceration of 86 years, 76 years on Count One, Two, Three, Five, Six and Seven grouped together, plus 10 years on Count Four.

Upon release from incarceration she would be placed on supervised release for a period of five years. I said before and am corrected by the government, only one count carries a five-year term of supervised release, the others a three-year term. Those must be concurrent. So, one five-year term applies.

She is subject to what are called the mandatory conditions that she not commit another federal, state or local crime; that she not illegally possess a controlled substance; that she not possess a firearm, dangerous weapon or destructive device; and that she refrain from any unlawful use of a controlled substance. She would be required to submit to one drug test within 15 days of placement on supervised release if that were to occur and at least two unscheduled drug tests thereafter.

In addition, she shall comply with what are called Standard Conditions 1 through 13 plus the following special conditions that would normally apply in a case like this. If there were supervision at large she would be supervised in her district of residence, she would be required to report to the

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probation department within 72 hours of release from custody, she would be required to participate in a program approved by the Probation Department for -- rather a mental health program of therapeutic counseling by a licensed therapist.

I'm recommending that she serve her period of incarceration at FMC Carswell.

And, as I said before, I'm recommending that she be given periodic assessments for mental health and help in any follow-up treatment, therapy or medication that may be recommended.

She will be required, also on supervised release, to cooperate with the Department of Homeland Security, the Bureau of Citizenship and Immigration Services in connection with any

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14 proceedings to determine her status in the United States and,
 15 also required to abide by BCIS rules, regulations and laws.
 16 I am not imposing a fine. I'm not imposing
 17 restitution. I don't think either is appropriate in this case.
 18 I am imposing a special assessment of \$700 which is
 19 mandatory under our sentencing laws, \$100 for each count.
 20 As I said before, I tried to explain as fully as I
 21 know how, I believe that the sentence is, one thing, compatible
 22 with the sentencing guidelines but, more importantly, is
 23 compatible with the criteria set forth at 18, United States
 24 Code, Section 3553(a) and I incorporate that entire discussion
 25 here for the purpose of this sentence.

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1 So, starting with the government, does either counsel
 2 know of any legal reason why the sentence should not be imposed
 3 as so stated?

4 MR. LAVIGNE: No, your Honor.

5 THE COURT: Defense?

6 MS. CARDI: No, your Honor.

7 THE COURT: I hereby order that the sentence be
 8 imposed as so stated.

9 Dr. Siddiqui, you have the right to appeal this
 10 sentence. If you are unable to pay the cost of an appeal you
 11 have the right to apply for leave to appeal in forma pauperis.
 12 If you request, the Clerk of the Court will prepare and file a
 13 notice of appeal on your behalf immediately.

14 THE DEFENDANT: Can I just make comment?

15 The way this trial was handled the appeal I assume
 16 would be the same way and that this kind of circumstances where
 17 I cannot get a lawyer of my choice, I am dumped by other people
 18 who are not authorized etc., etc., etc., etc., too long list of
 19 injustices, I do not want anybody to donate one penny towards
 20 appeal. It is useless, pointless, waste of time, energy,
 21 money, everything. Okay? I appeal to God. And he hears me.

22 THE COURT: You can, if you like, reconsider that.
 23 You have some time.

24 THE DEFENDANT: But I'm going to -- if I -- I would
 25 appeal it because I do not agree with it but not under this way

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1 of the way this was all done. This is more like -- I'm going
 2 to say this: I went from MIT and they can label me whatever,
 3 mental and list that they want to. I was at the Harvard of
 4 Israel and now I am at the MIT of Israel. I consider the MIT
 5 meaning Manhattan Institute of Theater Arts, that's why I am so
 6 happy. I take what God will give me, his mercy, and you all
 7 see that. So, please, don't spend any more on this.

8 THE COURT: Ms. Sharp, can I call upon you or
 9 Ms. Cardi to --

10 MS. CARDI: Your Honor, I will file notice of appeal
 11 and we will work out what will happen --

12 THE DEFENDANT: They will not --

13 MS. CARDI: -- what will happen.

14 THE DEFENDANT: Not on my behalf. Keep them out of my
 15 life.

16 MS. CARDI: I actually think I'm obligated as CJA
 17 counsel to file her notice of appeal and then we can figure out
 18 what will happen thereafter.

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19 THE DEFENDANT: No. No. I strongly refuse this
20 counsel definitely and any other appointed by anyone or
21 self-appointed. No way. Thank you.
22 I do not want you. If you do, one day I will take you
23 to court one day.
24 THE COURT: Wait. Let me tell you what I think she is
25 suggesting: The law is if you are going to have an appeal, it
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1 has to be filed in a certain time frame. And all she is saying
2 is that she'll file a notice of appeal so you don't waive your
3 right to appeal. As to who ultimately files the appeal, that's
4 a separate consideration.
5 Just give it some thought, but I think it is wise to
6 at least preserve the right to be able to appeal by having her
7 file just a simple one-page notice that says you appeal.
8 As to who ultimately --
9 THE DEFENDANT: No. I don't want them doing anything.
10 Thank you. If it has to be done -- I'm not waiving any right.
11 THE COURT: Okay.
12 THE DEFENDANT: If I don't waive it how does it
13 automatically go away? So, I don't want them doing anything.
14 Thank you very much.
15 THE COURT: Okay.
16 MS. SHARP: Your Honor, did you have a question for
17 me?
18 MS. CARDI: No.
19 THE COURT: I was going to ask you, as best you could,
20 to apprise Dr. Siddiqui as to the, what a notice of appeal is,
21 how the time frame, etc., etc.
22 MS. SHARP: Right. I understand, your Honor. And I
23 think Ms. Cardi did take care of that.
24 THE COURT: Okay. Counsel, starting with the
25 government, did you want to add anything to today's proceeding?
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1 MR. LAVIGNE: No, your Honor.
2 THE COURT: How about the defense?
3 MS. CARDI: No, your Honor.
4 THE COURT: Okay. It has been a long day so far,
5 Dr. Siddiqui. I wish you the very best going forward.
6 we are adjourned.

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